

RAPPORT NATIONAL DE LA DELEGATION ITALIENNE

NATIONAL REPORT OF THE ITALIAN DELEGATION

THE RIGHT TO BE HEARD

before administrative authorities and administrative judges

- 1. Generalities: Administrative and Civil Laws; - 2. ... audiatur et altera parte in administrative and judicial procedures; - 3. ... audiatur, and doceatur ; - 4. Audiatur and the Constitution; -5. Audiatur from administrative authorities: principles of Law; -6. ...some special points; - 7... the influence of the Courts; - 8... effects of violation of the rule, when it stands; - 9. Audiatur from the administrative judge: a summary.

1. Administrative Law deals with the empowering of administrative bodies, in certain fields and in view of certain public utilities, to dispose of other people's interests, eventually without their consent.

The scope of the present paper is to determine when these persons must at least be heard before an administrative decision is taken; if so, to what extent they must be informed about pending proceedings; and finally, if and how they must be heard in case of ensuing litigations.

We can perhaps start by listing the larger dissimilarities between Administrative and Civil (or Common) Laws:

a) in Administrative Law the power to modify previous positions with a statement of will (for that is, in substance, an administrative decision) is normally given to a single party, that is to say to the administrative authority. In Civil Law it is normally given to all the subjects whose position will be directly affected. If these subjects are more than one, they must all assent.

The first is thus an authoritative power. The second a consensual one;

b) in Administrative Law such powers are those only specifically

granted by the various Statutes. They are thus statutory powers, and this rule is called principle of legality.

On the contrary, in Civil Law the parties have a right to devise any contract which suits their aims, and is not opposed to public policy (1);

c) in Administrative Law any decision must be taken ex informata conscientia , after a sufficient study of the relevant facts, and must be aimed at the kind of result which is envisaged by the Statute. In any case, it must be reached in all impartiality, and must show a certain standard of efficiency in the management of the affairs. Otherwise, the power given by the Statute is in that particular case exceeded.

On the contrary, in Civil Law only certain errors have an influence on the validity of contracts, and the scope of transactions is normally irrelevant, if it is not positively immoral, or elusive of some given provision of the Law (2);

d) Administrative Law deals with basic interests of the social structure. Such interests must receive a quick settlement. Therefore, any doubt that individuals may have on the validity of administrative decisions must be exposed within a short period of time. These decisions can be voidable, but they are very seldom void; and the period granted to put the matter to test is strictly limited (3).

On the contrary, Civil Law takes a far more relaxed view of the defence of the status quo. Many illegalities make the contract void (4); and even in case of voidability, the period within which to go to the Courts is far longer (5);

e) administrative litigation is to be handled by a body of judges; whose structure is such as to respond to the special needs of Administrative Law: certainty, through a greater uniformity of jurisprudence, deriving from the paucity of the Courts; and speed, deriving from the quick start of the Lawsuit , from the limit in

the instances of litigation, and from the quick procedure in every stage.

2. It must be granted that the hearing of administrative parties in the course of administrative affairs or in the course of Lawsuits serves scopes of remarkable diversity.

If an administrative decision is taken on the ground of public interest, it could well be reached without any previous hearing of private points of view,

On the contrary, a Lawsuit - and particularly a non-penal one - is in itself the debating by the interested parties of questions of fact and of Law, before a public authority whose task is essentially to see which of the litigants is right.

Of course, much can be said to qualify these statements.

There are some exceptional Lawsuits in which the judges decide inaudita altera parte. But then, the judgment becomes final only if the party not previously heard does not take exception. Otherwise, the matter is entered into again from the start.

On the side of the administrative powers, expected future public gains must be balanced with undoubted present hardships, inflicted upon certain subjects, who will then be allowed to speak for themselves, in order to explain the extent of their inconveniences and prejudices, and also to criticise the expectation of any public advantage at all.

Also, personal interests can be used by the Law as a fact-finding stick, the usage of which can contribute to qualify the situation. Furthermore, ways and means are likely to be devised, which were not apparent beforehand.

When the hardship could be transferred from a subject to another, the debate between interested parties can identify different options,

and help to compare them.

Finally, the parties can bring themselves to rehearse beforehand some points, which they intend eventually to raise in future litigation. This allows the administrative authority to appreciate questions of Law which it would otherwise become aware of only in front of the judge, when a given administrative decision would already stand.

The arguments contra audientiam alterae partis seem to be essentially three:

- a) loss of speed in reaching a result;
- b) difficulty in drawing a line in the list of parties somehow interested in a decision;
- c) increased vulnerability of this decision, for faults incurred either in the identification of parties; or in feeding adequate information to them prior to their reply; or in delivering summonses to the right address or in following the correct procedure; or in giving adequate and explicit reasons when overruling some submissions.

No doubt, the hearing of interested parties before an administrative decision is impractical in matters of urgency, or of secrecy.

No doubt this method can put on the authority the onus of identifying the parties who shall be granted hearing.

No doubt the opportunity of having a debate prior to the reaching of a decision is less pronounced in fields, or in legal systems, in which ample recourse to the judge is given against the decision itself, and legal expenses are not insufferably heavy.

Overworked administrative authorities will consider with misgivings the prospect of seeing their decisions annulled by the administrative judge over a technicality, for their not having fully complied with the rule audiatur; and will be unhappy at

the prospect of having to start again - even when that shall prove possible - towards a new decision, similar in substance to the annulled one, but purged of the previous vice.

However, few people will dispute the common sense of discussing matters with the interested parties, before the authority makes up its mind; and of taking advantage of the collaboration of those better qualified to know the facts,

3. As already mentioned, the right to be heard is bound to the right to be informed on pending affairs. Of course, one is heard not on everything, but on a given matter. Nor can the intervention of the individual be very helpful, if the latter is not acquainted with the facts under discussion.

More generally, the contrasting principles of secrecy or publicity of data which are at the disposal of public authorities could be studied from two points of view.

There is indeed a socio-political publicity of certain data, and this serves the freedom of learning and of opinion, as well as benefitting public debates on the state of affairs. Here, data must be provided to anybody, or at least to all citizens.

Then, there is a publicity of data relevant to certain affairs, in order that people with a vested personal interest can discuss them.

In this last instance one should speak, in most cases, not of publicity, as the news on data are not given indiscriminately to the public, but rather of communication. Here, the focus shifts to freedom of legal defence of one's own personal interest in front of administrative bodies, prior to eventual litigation.

Perhaps, the rule audiatur belongs more specifically to the latter field; and one cannot doubt that it implies a duty for the

administrative authority to make available adequate information on the matter under consideration.

On this count also the rule can show some complexity, and can run contrary to the principles of rapidity and certainty, which are so much present in Administrative Law.

These being the problems, one can try to summarize the rule of the Italian system of Administrative Law.

4. No item of the Italian Constitution (6) requires that interested parties be heard prior to the making of administrative decisions.

The Constitution refers at times to a natural Law, higher and stronger than itself (art. 2: "rights of man, which cannot be violated"; the family is seen as a "natural society" in art. 19; art.32: the Law on health treatment cannot "transgress limitations deriving from the respect due to human beings"). But it would be difficult indeed to argue that the principle audiatur prior to administrative decisions is included among those natural rights.

Freedom of opinion, which certainly encompasses the right to be informed on public matters, is very strongly protected by the Constitution (7). But it entails communication of data of common interest, and cannot be constructed as the basis of a general right to be heard in matter of personal concern, or indeed in any matter, by the administrative authorities. According to Constitutional Court 1962 n.13 and 1978 n.23 the Statutes should, when possible, allow interested parties and members of the public to be heard, before administrative decisions are taken.

However, this principle of Law - the so called just proceeding (giusto procedimento) - is not a constitutional rule, and the

various Statutes can direct otherwise.

On the contrary - adds the former judgment - Statutes issued by the Regions are bound by it.

Unless, one is forced to argue, the opposite principle of Law is to be found in any specific field. In fact, regional Statutes must conform to directions given by act of Parliament, and the latter can instruct that certain kinds of administrative decisions be taken without any previous hearing of the individuals concerned.

Conversely, on the side of any judicial activity the position is quite clear cut, and the rule audiatur is squarely affirmed by the Constitution (8); "everybody can sue in the Courts in defence of rights or of legitimate interests. Everybody has an absolute right to defend himself in every degree or stage of the Lawsuit".

5. In fact, the principle audiatur prior to administrative decisions cannot be constructed as a truly general unwritten rule of the Administrative Law,

The panorama of the very many Statutes giving powers to administrative bodies, and determining ways of proceedings, is, from this point of view, extremely varied,

In some instances, the hearing of interested parties is requested. In others it is not. When it is, the rules applied are quite different from case to case.

This state of affairs calls for two queries:

- a) whether some consistent principle is to be found in the various groups of legislative solutions; and
- b) whether allowing the presence of some interested parties is to be deemed necessary in cases in which no express mention of it exists in the relevant Statute.

The first question requires the classification of statutory powers

in different categories.

A distinction based on the different authorities who make the decision is of little avail. Very frequently the same authority (say, the same minister, or public servant) has different powers, some of which imply, and some of which exclude, the need of a previous intervention of interested parties.

If then we consider powers based on similar criteria, we can observe that they are to be used after proceedings of the two opposite kinds under scrutiny.

Let us examine for instance the case of sanctions.

These are decisions taken in order to punish the voluntary activity of a subject who has transgressed a previous rule, and in order to insure that this rule is in future obeyed by all parties concerned. (The penal sanctions are, of course, excluded from the scope of administrative authorities, and reserved to the Courts).

Now, in this field we observe that, whereas disciplinary sanctions are very much under the principle audiatur, and in fact follow rather closely the rules on penal proceedings, other sanctions as, say, injunctions to destroy buildings erected without borough permissions, or to pay the borough fines in order to redeem some minor variances from the approved plans of buildings, are to be issued without a previous warning and hearing.

Nor could it be said that the difference reflects the special importance of employment in everybody's life, so that any punishment prejudicial to paid positions must be preceded by a hearing of the interested parties.

To start with, a defence is requested, in the public service,

before even very minor, and almost irrelevant, penalties, as a written reproof.

Moreover, it is requested also before penalties (fines, suspension of certain rights) in situations of special dependence from public bodies which neither consist in employment, nor allow self-employed professions or trades. Such is the case of membership of the Jockey Club, or of the National Society for the Improvement of Bloodstock, both institutions having disciplinary power on members who can be either amateurs or investors.

On the other hand, some cases of non-disciplinary dismissals of civil servants (on the grounds of ill-health, or of incompetence) are dealt with by the statutes in accordance with the principle audiatur. Some others (on the ground of loss of citizenship, ^{or of dependance} from foreign authorities), without any warning and request of defence.

Even the expulsion of aliens seems to include opposite ways. Normally, it is ordered by the Prefect without any previous hearing (9). On the contrary, a previous defence is, except in exceptional cases, allowed before the expulsion of refugees, in accordance with the convention signed in Geneva on July 28, 1951 (10). The expulsion of the foreigner, ordered by the penal judge as an extra-penalty, follows, of course, the rules of penal procedure (11).

The numerous instances of proceedings necessarily started on application by some subject (who would benefit by the decision) make in a why use of the audiatur principle.

The application is devised either in order to presume that the interested party is going to take steps according to the

new situation (e.g.: appointment of public servants, or granting of permits), or in order to limit the granting of some advantages to subjects who show an interest in receiving them.

But the point is then to see whether all the subjects interested in a single affair are heard beforehand; and chiefly to see whether those are heard, who would presumably argue against the possible decision, and could so give special food for thought to the administrative authority.

At times, the Statutes request that applications, received within certain periods, for free usage of public lands or waters, and in general for the granting of some advantages, be considered together, in comparison to one another. At times, such applications are to be published, in order to invite competition .

The decision must then give adequate reasons.

This happens, for instance, in the case of derivation of water from rivers (12).

Most appointments of public servants and most contracts with public bodies take place on a base of competition, and publicity.

The principle audiatur is quite consistent with public planning (e.g.: town planning, or planning of the number and ubication of shops).

Notice of the affair - at a certain stage of it, when a project of decision can be shown for criticism - is given through publicity proper (as opposed to communication to certain individual addresses); and the "interested parties", whose conclusions must be taken into consideration, are at times only the subjects who have a given specific position (e.g. owners of land or buildings; or owners or tenants of shops), at times also parties having a general or political interest as ordinary citizens, or as voluntary associations.

In fact voluntary associations try with increasing frequency to obtain locus standi in administrative procedures both as representatives of subjects having in certain matters a personal, special and factual interest (class interests), and as representatives of citizens entitled, because of their number and similarity of feelings, to a say in public affairs.

Statutes tend to increase the application of the rule audiatur in the field of expropriation (i.e. compulsory buying) of land and houses for reasons of public interest. In most cases, a personal notice of the intended new activity is to be served to the interested parties inviting previous criticism, whereas in the past a less effective system of general publicity was in force.

On the other hand, the scope for criticism is narrower, if the alterations have been already included in some piece of general planning already settled.

Recourse to the principle audiatur is very widespread in town planning, and in many other general schemes of action drawn up by local authorities.

In overall town-planning (as opposed to detailed planning of minor areas) all political interests can be heard. But normally one hears vested, personal interests only.

As a rule, no discussion seems to be asked for prior to the giving, renewing or revoking (provided the last is not a sanction of reprehensible behaviour) of licenses or permits. In most cases a fairly detailed motivation is required, with a view to allowing the interested party to go to the administrative Courts, and show that the administrative authority was not well acquainted with the facts, or has acted unreasonably. In other words, private situations which the law feels should be considered with special care are at times protected through the need of specifying the

reasons of the decision reached, rather than through a previous discussion.

Equally it is not relevant on the question of the existence of the rule audiatur the point that a decision is going to affect the property, or the economic interests, or some degree of liberty (as in the cases of medical treatment, cordons sanitaires, closing of roads to traffic, etc.) of the individual.

Usage of statutory powers can result in individual positions being improved or restricted. In this second case, most powers impinge on fundamental rights, which are limited, and in fact annulled, by the administrative authority.

Also the existence of discretionary powers is in itself unable to lead to a general conclusion with respect to the present field.

Different discretionary powers are to be made use of in accordance to or regardless of the principle audiatur; and also situations to which a certain administrative decision must necessarily follow can be clarified beforehand by the discussion between interested parties.

Rather, there are some proceedings the nature of which calls in itself for a previous discussion.

Such are the cases in which a provisional list for the appointment of personnel, transfer of personnel, or assignment of grants is drawn (e.g. temporary positions for teachers, changes of schools for them, allotments of council houses: in all these instances points for various situations are given and summed up), and every interested party has a right to object, after which the decision proper is made.

Here, it is in the nature of things that the principle audiatur has got to work, and the interpreter is well entitled to read the

Statutes in a way to insure the good functioning of that rule.

Also, the Italian Administrative Law knows many instances in which an appeal against the administrative decision (which is already operative) is given to higher administrative authorities, frequently committees, but also single agents.

Against the decisions of these authorities one can, as always, go before the administrative judge. Or the interested party can choose to go immediately before the Courts, without previously following the administrative line.

Now, such administrative controversies are too much reminiscent of the judicial ones to allow the possibility of a decision inaudita altera parte, even if the full rules of the discussion should not be indicated by the Statute.

6. As to the particulars of the right to be heard, in proceedings in which such a right exists, they are usually determined by the various Statutes.

Notice is given either by publication through posters and announcements in journals, official or not, or by communication to the persons who appear to have a stake in the matter concerned.

Time limits to submit oppositions and remarks vary from case to case. The same is true for the amount of information to be passed on, so that criticism of a proposed course of action, and contributions of ideas towards the solution of certain problems, can be made. If Statutes are not clear on the amount of data to be disclosed, the Law must be interpreted in a way to make informed criticism possible.

The administrative procedure is mostly in writing, and very few (oral) administrative hearings exist in Italian Law. Among

these, perhaps the most relevant instances are oral defence in disciplinary cases within the civil service (13) and inspections of sites in the presence of the interested parties, who can submit observations (14). Also in these cases, a written report on the oral interventions is then made.

Witnesses are not heard in public, and in consequence cannot be cross-examined. Their evidence can be criticized in writing, and new testimony sought.

As the parties *make* their submissions in writing, it is naturally open to them to take advantage of expert assistance.

On the other hand, informal contacts cannot be excluded, and one should think occur frequently.

If an administrative decision is taken after a consultative procedure, the advice is normally not shown to the interested parties, who have no opportunity to criticize it before the decision is reached.

7. No general reference to the principle audiatur can be found in the judgments of the Council of State.

One should think that, if asked to make clear his mind on that principle, the administrative judge would find for its non-existence,

This, in fact, is the meaning of Council of State, VI Section, 11 July 1962, n.537: "before considering an application made by an individual, and not consisting in a quasi-judicial complaint, the public administration is not bound to invite conclusions from third parties, having contrary interests".

In general, the Council of State has protected relevant positions of parties interested in matters decided by public authori-

ties, through the rule that reasons must in particular cases be given with an accuracy proportionate to the kind of statutory power made use of.

On special occasions, in which the judge finds that the administrative discretion must be carefully checked, he has asked for detailed reasons and for a previous hearing, although no express prevision of the latter (as, indeed, of the former) is to be found in the Statutes; and it has happened that successive Statutes, or governmental regulations, have endorsed the points of Law made by these judgments,

This has been the case of permissions granted to private firms, to carry on bus services for the general public.

Such permissions, and permissions of changing routes or time-tables, or fares, can mean economic viability or non-profitability for rival enterprises, already operative, which are thus permanently vulnerable by the action of public authorities.

In this field, the Council of State has developed a jurisprudence (15), according to which any new permission must be studied in conference among interested parties, who can make rival proposals; and must, of course, be adequately justified in writing.

The judge has explained in detail what he means by private conference, and has more or less constructed a way of proceeding which had no basis on explicit statutory provisions.

8. If a participation of individuals to the administrative proceedings is requested, and the individual is not properly allowed to take part in it, then the administrative decision is voidable (not void: see § 1), as in the case of any other illegality affecting it.

Because of the distinction, recognised by the Italian Constitution (but dating back well into the previous century) between full Civil Law rights and legitimate interests held by any person with regard to administrative decisions (16), this illegality can bring about the annulment of the decision, but not the payment of damages. In fact, damages are awarded only for breach of full rights, not of legitimate interests.

Before the annulment the challenged decision is operative, unless suspended by the administrative judge (17).

On the other hand the annulment, when pronounced, is understood to take effect ex tunc. The decision is annulled from its start, not quashed for the future only.

If the administrative authority has in the meantime changed the state of fact in a way prejudicial to previous civil rights of the citizen, then its activity is by now to be considered tortious, and damages must be paid. Any litigation on this subject concerns questions of Civil (or Common) Law, and falls into the province of the civil (or ordinary) judge.

As we know, the judicial annulment of administrative decisions comes, on the contrary, under the responsibility of administrative judges: regional administrative Courts and, in appeal, judicial committees of the Council of State.

It has also been stated that in all cases of illegality of administrative decisions against which an appeal to higher administrative authorities is given, it is open to the interested party to file the administrative appeal, or to go immediately to the Courts.

This rule was introduced in 1971 (18). But what now seems to matter most is the point that the rule has always been one

and the same for all cases of illegality of administrative decisions.

So it is with regard to the time limit for bringing an action before the regional administrative Courts: in all cases of illegality, sixty days from the notification of the decision, or from the full knowledge of it or, in particular cases, from publication (19).

It may happen that administrative authorities have failed to allow the interested individuals to take part in the administrative proceedings.

The case calls for a distinction:

a) if the interests considered by the Statutes are personal and distinct from those of large generalities of citizens (that is to say, interests which, according to the general principle, would give the right to go to the Courts against an adverse decision already taken) it is not open to the judge to consider which affect the illegality incurred in, by not hearing beforehand the interested individuals, has had in the specific case.

When the decision was discretionary, it is clear that the intervention of another party could have influenced the administrative authority in a way quite unfathomable to the judge, who cannot know directly the merits of the matter.

But also in respect of bound decisions, the judges feel that as the legislator has provided for the previous acquisition of a particular point of view, he has himself considered relevant and irreplaceable this procedural stage of the matter. Again, it is not for the judge to appreciate directly the facts, in order to try and exclude that the individual's intervention could have changed the administrative decision.

In conclusion, any denounced illegality must then cause the annulment of the resulting decision, with reserve to the starting of a new procedure, if special reasons (time-limits, changes of relevant facts, etc.) do not exclude it.

It can be doubted whether an individual who has been given the possibility to be heard during the administrative proceedings is, or is not, entitled to complain that another individual has not been given, as he should have, a similar chance. The affirmative would derive from the fact that full discussion is requested by the Law in the interest of a better decision, not of the single parties. The negative, from the remark that the individual interested could well have chosen to keep aloof from the matter, and has shown, by not going to the Courts against his exclusion, not to be really interested in it; or from the opinion that the Law would not allow a plaintiff to defend interests which are primarily vested in other individuals;

b) on the contrary, if the interests considered by the Statutes are general to a large class of individuals or associations, that is to say political, the Council of State rules that any criticism contributed by those parties is not a quasi-judiciary complaint, and can be answered by the authority in fairly general terms.

When not answered at all, or when publicity has been omitted or insufficient, one should think the parties who have not seen their objections answered, or who would have been entitled to raise them, are not allowed to go to the Courts.

It remains to be seen if, and if so within which limits, any other party who has locus standi can complain in Court about the irregularities above mentioned.

It has also been ruled (20) that if the authorities are inclined to accept criticism volunteered by politically interested parties, and impinging on the position of other individuals, the latter must be heard beforehand,

9. As already said, the hearing of a debate between the interested parties is the very heart of the judicial activity.

For this reason, to enter into details on this matter would mean to describe almost every rule of administrative Court procedure.

In the present paper, two points only need to be made:

a) with regard to the knowledge, by all parties, of the documents on the official file, the Statute on Court administrative procedure says that the administrative authority must, when it comes to the Courts, deposit a copy of the decision attacked and of all papers and documents on which it was founded.

In case the administrative authority chooses not to appear in Court, or omits to bring the documents, the judge can order it to deposit any document he thinks fit (21). If the administrative authority does not comply, the judge has always felt entitled to consider the allegations of the plaintiff on the point as proven.

Both discretionary powers so given to the judiciary are of interest.

As to the selection of documents considered relevant, it is to be remarked that the plaintiff can, on consulting them, add new allegations against the decision attacked.

At the end of the day, the result of the Lawsuit can then depend on the usage of that judicial discretion.

As to the possible presumption against the administrative authority which does not comply with an order to deposit documents, one must consider the case of individuals with opposite

interests present in the Lawsuit (e.g. a neighbour who attacks a building permission given by the borough, versus the borough itself and the individual holder of that permission). The effects of the administrative body's conduct pending judgment are then to be felt by an individual who cannot do anything to redress it.

The judge can also order administrative bodies, including those not present in judgment, to carry out surveys in the presence of the litigants, their counsel and experts.

b) on decisions concerning many parties, one can summarize as follows.

If any decision prejudices different parties, these can attack it jointly or in individual actions. They must choose the latter course if their interests are at loggerheads.

However, it is for the judge to hear different cases together(22).

If many individuals have a direct interest to resist an attack against an administrative decision, they must be notified on the Lawsuit by the plaintiff, and are parties to it.

If the plaintiff fails to notify any of them, his action is not allowed to go forward.

If he fails to notify somebody, the judge shall order him to complete the notifications within a given time. Or the interested parties can intervene voluntarily (23).

Persons indirectly interested can appear voluntarily, but their action is restricted to helping their principals (24).

Anyway, the plaintiff must notify the administrative authority which has issued the decision, and the individuals only, who appear prima facie to be directly interested in defending it.

If a third party is nevertheless prejudiced by the result of the Lawsuit, he is free to attack on every count the future activity of the administrative body, entered into in compliance with the judgment, as the res judicata is formed only among the parties of the Lawsuit, and those deriving a right from them (25).

In the meantime, one cannot deny that, in case of annulment of the decision by the judge, a disadvantage will be borne by those persons, favored by that decision, who had no title to be called in the Lawsuit, and to defend themselves in it.

REFERENCE NOTES

- (1) art. 1324 civil code
- (2) artt. 1410,1343 and 1344 c.c.
- (3) art. 21 l. 6 December 1971 n.1034, on the creation of the Regional Administrative Courts (Tribunali Amministrative Regionali), or art. 9 d.p.r. 24 November 1971 n.1199, on quasi-judicial administrative complaints (semplificazione dei procedimenti in materia di ricorsi amministrativi)
- (4) art. 1418 c.c.
- (5) art. 1442 c.c.
- (6) the Constitution of the Italian Republic was promulgated_t on 27 December 1947 and is in force since 1 January 1948, It has taken the place of the Statute of the Kingdom of

Sardinia (afterwards of Italy), promulgated by King Charles Albert on 4 March 1848.

(7) artt. 21,2,3 and 49

(8) art. 24

(9) art.150 t.u. 18 June 1931 n.773, on the Police (testo unico delle leggi di pubblica sicurezza)

(10) ratified from Italy with l. 24 July 1954 n.722.

(11) artt. 215, 235 and 312 penal code

(12) art. 7 t.u. 11 December 1933, n.1775, on Waters and Electric Plants

(13) chiefly, art. 112 t.u. 10 January 1957 n.3, on the State public servants

(14) for inspections ordered by the administrative judge, see art.32 r.d. 17 August 1907 n.642, on the procedure in the Council of State. The rule applies also to the Administrative Regional Courts, in accordance with art.19 l. 1971 n.1034 cit.

(15) for instance, IV, 25 November 1955 n.912; IV, 25 June 1955 n.460; VI, 27 August 1952 n.622

(16) artt. 24 and 103

(17). art. 21 l. 1971 n.1034 cit.

(18) artt. 2 and 3 l. 1971 n.1034 cit.

(19) see note n. 3

(20) Council of State, IV, 27 October 1965 n.654

(21) art. 21 l. 1971 n.1034 cit.

(22) artt. 52 r.d. 1907 n.642 and 19 l. 1971 n.1034 citt.

(23) art. 21 l. 1971 n.1034 cit.

(24) art. 22 l. 1971 n.1034 cit.

(25) general principle of Law, stated in art. 2909 c.c.