



## CLGE Position Paper in favour of the regulation of the surveying profession

**The regulation of the surveying profession in the areas of property delimitation, registration and cadastre, is essential to protect both the vital interests of consumers and the state; it places no restriction whatsoever on mobility of practitioners, volume of available work, consumer choice, or price levels.**

### Executive Summary

The surveying profession is regulated in many EU member states to ensure a high quality of service and consumer protection while promoting mobility of professionals. EU directive 2005/36/CE modified by directive 2013/55/EU defines a regulated profession as one in which access to the professional activity or the use of a professional title is subject, by means of legislative, regulatory or administrative provisions to the possession of specific professional qualifications.

In particular, surveyors, who operate in the very specific areas of property delimitation and cadastral matters, are regulated, because the nature of their activities affects, not just their immediate clients, but also the public good, in that state property registers and cadastres are matters of vital public importance. A high level of professional skill and education, both legal and technical, for surveyors, is therefore essential to ensure that constitutionally guaranteed property rights are not endangered, that the confidentiality and security of their clients data is protected and that the state's vital function in this field is safeguarded.

CLGE (Comité Liaison des Géomètres Européens / Council of European Geodetic Surveyors), which represents the diverse professional bodies throughout the member states, lays down a strict code of conduct and sets out a rigorous code of professional qualifications, thus ensuring the highest levels of education, training and continuing professional development for its members.

Where regulation is in force, professional activity is controlled, either directly by a state authority or by national competent authorities and this latter form of regulation is particularly necessary in the case of liberal or self-employed professionals, to ensure independent and disinterested professionalism in their activities and also to put in place adequate ethical and disciplinary controls.

Regulation does not affect mobility of surveying professionals between member states. Such professionals are free to establish themselves permanently in any member state and operate on a cross-border basis temporarily. Any restrictions which apply are as a result of certain states reserving to themselves certain functions to be performed solely by their own civil servants, or else as a result of regulations which apply with equal effect to nationals of the host state, and thus are not obstacle to mobility.

The volume of work, related to property delimitation and cadastral functions, which depend on economic and development activities, is, by its nature, limited. Deregulation would not increase the availability of such work in any way. Despite such limitation there is no evidence of restrictive practices or of the operation of a closed shop, within the profession in Europe.



Consumer choice for services, as opposed to products, involves assessing the value of the offer, both in terms of price and quality. Quality of services, however, can only be guaranteed by the existence of enforceable standards and levels of quality. Regulation is a means of providing such a guarantee. Deregulation would remove this guarantee and leave both the consumer and the state with no means of assessing the value of the service being offered at a given price. Within the necessary limitations of regulation for quality control purposes, consumers are free to compare surveyors' prices for services, both in-state and cross-border.

Hereafter we develop a full paper about this information, written as outcome of an international workshop held in Paris on 27 and 28 January 2014, with delegations from Belgium, Croatia, Denmark, France, Germany, Ireland and Switzerland.

The paper will be tabled for approval to the General Assembly of CLGE in March 2014.



## I. Presentation of the surveying profession

European Surveyors are professionals with the academic and professional qualifications and technical expertise to undertake a wide range of surveying and legal tasks such as:

- to define property boundaries and conduct cadastral measurements on behalf of public authorities;
- to gather and manage the basic data needed for the geographic data infrastructure; to assemble and interpret land and geographically related information;
- to use that information for the planning and efficient administration of the land, the sea and any structures thereon;
- and, to conduct research into the above practices and to develop them.

The work of European Surveyors is fundamental to the provision, delimitations, maintenance and enhancement of the economic, physical and social setting in which all human activities take place. In their roles within the environment, and the functioning of the property-related legal systems of Europe, they recognise their basic responsibility to ensure the protection of both consumers and our unique environment. In this way, European Surveyors make an exceptional and vital contribution to the quality of life for all European consumers.

Their professionalism, skill, expertise and objectivity in achieving the efficient and effective planning and administration of the physical, social, legal and economic environment ensures the quality and sustainability of all human activities related to property and geographical information undertaken within Europe.

Thus, they have a clear and constant responsibility to Europe, their respective governments, their clients and to the wider public, for the long-term well-being of both current and future generations.

Their professional expertise and independence which are underpinned by high levels of professionalism and ethical principles ensure the quality of surveying services. This is assured by the disciplinary regulations of their national associations, CLGE Code of Conduct and Code of professional qualifications which were unanimously adopted by all the members and, where appropriate, by legal authorisation and national regulations.

## II. Arguments in favour of the regulation

CLGE members have all paid close attention to the European Commission communication on evaluating national regulations on access to professions.

The surveying profession is regulated in many EU countries to ensure a high quality of service and consumer protection while promoting mobility of professionals.

According to the definition given by directive 2005/36/CE which has not been modified by directive 2013/55/EU, a regulated profession is “a professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications; in particular, the use of a professional title limited by legislative, regulatory or administrative provisions to holders of a given professional qualification shall constitute a mode of pursuit”.



The possession of specific professional qualifications is at the heart of the European definition.

Indeed, some professionals exercise very particular activities in specific areas, hence the need to hold specific professional qualifications. That is especially the case for surveyors who deal with property delimitation and cadastral matters, which is a public good, as described before.

While performing their activities, surveyors have often to deal with sensitive information containing both personal data and property data of the private and legal entities seeking their services. It is thus necessary to possess the skills and knowledge so as not to endanger property rights, which are constitutionally guaranteed in Europe and avoid abusive use of personal data.

For the surveyors, who are entrusted with official authority, their task is even more specific as they have to perform cadastral work or define property limits while acting on behalf of the State.

Due to their specific activities, surveyors are legal and technical experts, hence the need of specific professional qualifications to practice the surveying profession.

Therefore, CLGE would like to raise the following arguments in favour of maintaining and developing a regulation for the surveying profession.

**1. The purpose of a regulation is to guarantee a high quality of service and not to restrict market access**

- The possession of specific professional qualifications is a guarantee of a high quality of service and consumer protection. Due to their specific professional activity, surveyors have to go through specific education and training, both initial and continuous.
  - o According to article 5 of CLGE code of conduct<sup>1</sup>, which was unanimously adopted by all the member states in 2009, “European Surveyors are educated, trained and professionally qualified at the highest levels required of surveyors within their own European countries.”
  - o Also, article 5 states that: “European Surveyors maintain and enhance their knowledge and expertise, and take appropriate steps to extend their competencies as the demand for new services develop. They undertake an appropriate programme of continuing professional development throughout their working lives.”
- When a profession is regulated, the regulation is organized and controlled by the State, and/or national competent authorities, to guarantee a high level of quality and consumer protection. The professional structures which are competent for the regulation of a profession have all in common the duty to ensure that the professionals are duly qualified to perform their professional activity. They can also, for instance, control that professionals hold insurance, abide by the national and European legislation and codes of conduct, or impose sanctions in case of misbehaviour.
- The surveying profession is mainly exercised by self-employed professionals. When dealing with property and ownership affairs, a regulation is an essential corollary to liberal professionals to

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<sup>1</sup> The code can be downloaded on ECOSOC Website : <http://www.eesc.europa.eu/self-and-coregulation/documents/codes/private/137-private-act.pdf>



ensure that the professional is independent, disinterested and free from third party influences so that clients can receive objective advice. CLGE thus fully supports the European Commission when stating in its communication that regulating a profession which is mainly exercised by self-employed professionals could be considered as a necessary guarantee.

## **2. Regulation does not affect mobility**

There are certain surveying functions which are reserved directly to the State in certain Member States. However, excluding these exceptions, the regulation of the surveying profession in general is fully compliant with the EU directives.

Within that context, every surveyor from the EU can equally exercise the profession anywhere in the EU on a temporary basis.

On a similar basis, surveyors are free to establish themselves anywhere within the European Union on the same conditions as nationals from the host country. Those conditions cannot be viewed negatively as an obstacle to mobility, as they similarly apply to the nationals, but as safeguards for a high quality of service and consumer protection.

Thus, regulation, as it applies to the surveying profession, does not affect at all this free movement of services and workers; quite the reverse, it guarantees a high quality of service everywhere in the EU and is proportionate to this specific objective.

## **3. Regulation does not affect employment and contributes to growth**

The volume of work related to property delimitation and cadastral activities is limited by its nature. It depends on economic and development circumstances. Thus, a deregulation would not increase the volume of this work in any way.

And yet, despite this limited volume of work, there is no example in Europe of restrictive practices or the operation of a closed shop (*numerus clausus*) in the profession.

## **4. Regulation of professional competence does not affect price formation and competition**

The cost of a service is based on an offer price. Consumers are therefore free to compare the prices of different surveyors even from other countries when they are free to exercise cross-border activities on a temporary basis. The conditions for an open competition are respected within the surveying profession.

As stated by the European Commission in its communication, regulation allows consumers to judge the technical knowledge and competences which professionals, available in the market, are required to have. A deregulation would imply that prices would be the only criteria at the disposal of consumers to compare surveying services. The interest of the State in protecting the integrity of property registration systems would also become compromised without regulation.

As a consequence, a deregulation would not increase competition but it would obviously threaten the quality of service to consumers and weaken the State ownership protection system, which is a



public good. It would also have a negative effect on third parties (neighbouring properties, mortgage providers, investors...).

#### **5. A deregulation would not increase consumer choice**

As the number of surveyors is not limited and as surveyors are already free to settle where they want and exercise cross-border activities, a deregulation would not increase consumer choice.

### **III. CLGE initiatives to support mobility, employment and a high quality of service**

CLGE and its members are continuously considering new initiatives to support mobility of services and professionals, employment and a high quality of service.

Therefore we develop many activities and programmes in that field. They are summarised below.

#### **1. Code of conduct**

In accordance with Article 37 of the Directive on Services in the Internal Market (2006/123/EC), CLGE issued a Europe wide Code of Conduct in 2009, which was unanimously adopted by the member countries. Its goal is to facilitate the provision of services and the establishment of surveyors within the EU and EEA Member States.

Besides, the code aims at ensuring the highest level possible for the quality of services, and at promoting higher levels of confidence in the relationship between European Surveyors and consumers.

It also reinforces and clarifies the highest standard of professional behaviour among European Surveyors. European Surveyors are bound to respect this Code of Conduct wherever they provide their services either temporarily or permanently, regardless of their professional status.

#### **2. Code of professional qualifications**

To assure a common European professional level and a high protection of ownership rights in legal issues related to land and property and work executed by the profession in public or private service, the CLGE Code of professional qualifications defines and recommends necessary professional qualifications and prerequisites as well as business and disciplinary requirements.

The topics covered by this Code are related to legal regulated cadastral work (in the field of property formation, modification and registration), property and land management activities to ensure reliable cadastral systems and land registers and to secure and protect property rights. These basic systems and registers are fundamental infrastructural elements in every society in order to secure the rights and ownership of property. It is imperative that all questions related to property are known as trustworthy and treated reliably.



### **3. Initiatives for Young Surveyors and their mobility**

In order to support the mobility of young professionals and students, CLGE has set up a platform, [www.clge.eu/trainee\\_program](http://www.clge.eu/trainee_program), where employers and candidates for a job position or a traineeship could easily meet.

Employers can freely post job positions; students and young professionals can also freely post their résumé and apply for jobs or internship positions.

This initiative was moderately successful but it is now in need of modernisation.

Together with the global association of surveyors (FIG – *Fédération Internationale des Géomètres*), CLGE has established a European Branch of the Worldwide FIG Young Surveyors Network.

We organize an annual CLGE Students' Contest and gather all the European Students every three years at the CLGE Students' Meeting.

Together with partners, CLGE is involved in two projects promoting young person recruitment, education and mobility [Leonardo with the project GeoSkills + and Erasmus with GIN2K].

### **4. The Measurement Code for the Floor Area of Buildings**

The Measurement Code for the Floor Area of Buildings was created by a special working group of CLGE. It was developed with the close cooperation of domain experts from the European Commission.

The Measurement Code was unanimously adopted by CLGE members in September 2011 during CLGE general assembly which took place in Tallinn with the following provisions: "This code should be used as a European cross border real estate area label by CLGE members and all interested parties."

In April 2012, a European Commission official recognised the Code as "visionary cross border tool for transparency".

The Code shall be used as a European cross border quality label by European surveyors and all interested parties. Therefore, it has been advertised and promoted via the initiative called European Real Estate Area Label (EuREAL; [www.euREAL.eu](http://www.euREAL.eu)).

The Code was conceived as a platform for further improvement and cooperation with other bodies especially the European Commission. This plan has already been successful since the INSPIRE thematic working group on buildings adopted the measurement code as the default description for areas in buildings. This was endorsed by the European Commission in April 2012 and our approach is now part of version 3.0 of the INSPIRE Data Specifications.

By offering a tool to harmonize the measurement of the floor area of buildings, the Code directly contributes to the cross-border mobility of surveyors and to the protection of consumers who can more easily compare the price of different building throughout Europe.

The International Property Measurement Standards Coalition was created to share this innovative European approach with the rest of the world.



## 5. DPKB database

The “Dynamic Professional Knowledge Database” contains the most important information about geodetic surveying services at a national level (national legal framework, fields of activity, professional recognition, education programs, statistics). One of the reasons for the establishment of the database was the lack of information regarding national rules, regulations and the practice of surveying across Europe, which has proved to be a considerable hindrance to the mobility of geodetic surveyors.

The DPKD provides an information pool and a guidance for individual surveyors who are interested in providing their services in other countries and will hopefully give a boost to mobility within the profession. Additionally it is a source of information for clients, that helps them understand and compare surveying services in Europe.

The database is also a tool which provides support to competent authorities at national level. Learning more about the situation in other European countries helps in matters of professional recognition and will improve the contacts between competent authorities in different countries. This makes the process of professional recognition easier and will also enhance an exchange of best regulatory practice.

## **About CLGE**

*The Council of European Geodetic Surveyors (or Comité de Liaison des Géomètres Européens: CLGE) is the leading association for the Surveying Profession in Europe. It promotes the profession in the European Union and fosters its development in the surrounding Council of Europe countries.*

*Surveying includes Cadastral Surveying which provides security to land and property title and thus underlies the economic base of western society.*

*Moreover, Geospatial Information is now ubiquitous in our lives and the Surveyor plays a fundamental role in this field. Both fields are strongly related since the cadastre is the ideal foundation for national Geo Data Infrastructures.*

*The individual Surveyors, spread over 36 member states (and 3 observing members), are the final and most important beneficiaries of CLGE’s activities (more than 100.000 professionals). However, the Council also pursues more general aims such as the sustainable development of European society and the public and individual interests of European citizens.*

*The self-employed ‘liberal’ surveyors, who are entrusted with official authority in the field of property guarantee form an important part of CLGE. These liberal surveyors assume personal responsibility and liability and economic independence*

## **Contact us via**

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