

Małgorzata Książek*

MODERN LEGAL REGULATIONS FOR THE LAND-SURVEYING PROFESSION
WITH REFERENCE MADE TO THE 1925 LEGISLATION

1. Introduction

The act on authorized surveyors of 15th July 1925 controlled the pursuing of the freelance profession in Polish land surveying between 1925–1952. This was the first such provision, being a legal act, implemented in Europe.

The previous representatives of the freelance profession were addressed to as authorized surveyors. Representatives of this professional position guaranteed professionalism in the entrusted works and so acquired the status of persons of public credibility.

The act about authorized surveyors implemented numerous modern solutions to the surveyor's profession, mainly unifying its organisational structure. However, it was not a legal provision free of any inconsistencies. These appeared with the erroneous interpreting of the provisions of law, discordant to the legislator's intention.

The education level of candidates for authorized surveyors, the appointing of the vocational surveyors' autonomy and the performing of supervision functions gave rise to specific controversies in the surveyor's environment.

And so this article shows the positive and negative aspects of the impact of the legal provisions, controlling the performing of the freelance occupation in land surveying, on its functioning and its developmental trends.

2. The principles of the act on authorized surveyors

The act on authorized surveyors of 15th July 1925 [1] specified conditions to be observed by candidates for authorized surveyors, and duties thus effecting.

The practical realisation of the act on authorized surveyors was warranted by the ordinance of the Minister of Public Works, issued in cooperation with the Minister of Agricultural Reforms [2].

* The Geological and Drilling Company, Sosnowiec

Pursuant to article 1 of the act, persons with secondary education – graduates of secondary level land surveying schools, land surveyor engineers and university graduates could apply for the title of an authorized surveyor.

After graduation candidates serve their apprenticeship with an authorized surveyor's office. The length of the apprenticeship depends on their educational level. For persons with secondary education the apprenticeship lasts 5 years and for those with higher education – 2-years. The certificate issued by the authorized surveyor was proof of completed apprenticeship.

The candidate who completed his apprenticeship could sit his exam before the state examination committee. He had to complete a task ordered by the committee, provide it with appropriate documentation and then plead the thesis. The exam was to prove sufficient professional knowledge and ability to independently perform surveyor's activities. Besides the practical examination the committee also verified the knowledge of legal acts, and of provisions and instructions in the field of geodesy and cartography and other related fields. If by majority of votes members of the examination committee considered the candidate sufficiently prepared to perform the function of the authorized surveyor a certificate was issued confirming practical knowledge of the profession.

The submitting, by the applicant, of the application to the locally proper provincial office was the last stage of the procedure awarding the professional title and licence.

The following were enclosed with the application:

- proof of Polish citizenship,
- curriculum vitae,
- school graduation certificate,
- apprenticeship certificate,
- practical examination certificate.

The title of the authorized surveyor was conferred by the voivod by way of a decree after having reviewed the candidate's application.

3. The act about authorized surveyors and the former reality

The act of 15th July 1925 about authorized surveyors was undoubtedly a very daring and important step to the proper, statutory settlement of the surveyor's freelance profession with regard to state authorities and the society for whom it was to play an ancillary role.

In effect of this act three important principles were introduced:

- 1) the abolition of the variety of professional titles still valid after the annexation, and the introduction of a single obligatory title of "Authorized Surveyor",
- 2) the provision of exclusivity of powers to perform measurement works only by authorized surveyors,
- 3) the authentication of plans and other surveying records provided with a stamp of an authorized surveyor.

Despite many benefits implemented with the act it still remained disappointing to the land surveying environment. The problems of awarding an authorized surveyor licence only to university geodesic graduates, the appointing of the land surveyors' chamber and entrusting it with geodesic activity supervision, still remained unsolved.

The very innovatory 1925 act also became the subject of unfair manipulation by former authorities as it made the introduction of provisions having negative impact on the functioning of the freelance profession in geodesy possible. These included the ordinance of the President of the Republic of Poland of 29th February 1928 amending the act about authorized surveyors [3], the circular of the Ministry of Agricultural Reforms of 16th March 1929 about contracting surveyors to perform integration-measurement works [4] and the letter of the Ministry of Public Works about the performing of authorized surveyors' works by civil servants [5].

3.1. Education of authorized surveyor candidates

The awarding of licences to surveyor engineers and land surveying secondary school graduates (except for the difference in apprenticeship length) on almost equal rights was an the inferior aspect of the binding act.

Such an entry in the act was being explained by legal unification trends in three post-annexation areas, having different state and cultural traditions. On the other hand the admittance of technicians to perform independent land surveyor functions was a must imposed by the magnitude of works connected with the reconstruction of the agricultural system.

The specificity of the land surveyor profession required and still does, extensive geodesic and also legal, economical or agricultural knowledge. And so the authorized surveyor was not only the executor of technical activities, the additional extensive scope of competence imposed high responsibility on the profession. The society had to be given guarantees that it is entrusting its business to people with the call and those properly qualified. And so part of the land surveying environment preferred to award the title of the authorized surveyor to academic graduates, as only such warranted professionalism.

3.2. The summoning of authorized surveyors' chamber

Yet another unrealised demand of the surveyors' environments was the summoning of the authorized surveyors' chamber, performing the function of a vocational surveyors' autonomy. This issue was frequently discussed in the course of activities of authorized surveyors. Non-the-less the surveyors' chamber as an institution was never a fact, and the numerously appearing at that time surveyors' associations did not request obligatory membership of professionally active persons. This made execution of penalties, should professional duties be neglected, difficult. And this lead to lack of guarantee of proper performance of ordered geodesic works.

The significance of the role played by authorized surveyors in the agricultural system rebuilding process also favoured the summoning of an autonomy. Land surveying activities related to equipment-agricultural tasks, performed at that time, constituted over 80% of all works performed by authorized surveyors. And so the optimum organisation of the new farms' field structure was the sole responsibility of the land surveyor profession. The summoning of the agricultural chamber in 1928, representing and protecting the interests of agriculture, was to be followed by the summoning of the land surveyors' chamber, whose goal was to expand and improve the cooperation between the two professions: farmer and land surveyor.

At that time each freelance profession had its own occupational autonomy, and so the statutory summoning of an appropriate institution for authorized surveyors, protecting their dignity and professional rights was obvious.

3.3. Supervision over the activities of authorized surveyors

Supervision over performing professional duties by authorized surveyors was yet another issue.

The 1925 act entrusted execution of this function with the voivod. Pursuant to the contents of the 1926 Ordinance the voivod controlled professional activities of land surveyors through the assistance of his civil servants.

Should any dishonesty or discrepancy to legal and technical provisions of surveyors' work performance be revealed, the proper by place voivod admonished and ordered the removal of the aforementioned. If the infringement of professional duties showed any attributes of offence, the voivod was authorized to suspend thereof in official duties ordering the starting of a disciplinary procedure.

The deprivation of the use of the authorized surveyor's title and thus related licence could only be accomplished pursuant to the judicial decision of the provincial disciplinary commission. Disciplinary commissions warranted professionalism, impartiality and loyalty towards the voivod. The decision of the provincial disciplinary commission could be appealed to the disciplinary commission affiliated with the Ministry of Public Works and composed of the Supreme Court Judge as the president, civil servant of the Ministry of Public Works and civil servant of the Ministry of Agricultural Reform.

3.4. Act about authorized surveyors and other legal acts

Numerous provisions amending the initial act were enacted during the binding of the statute. Some of them distorted its fundamental assumptions concerning the awarding of licences and the performing of geodesic supervision.

The letter of the Ministry of Public Works about the performing of activities of an authorized surveyor by civil servants, addressed to voivods, was just one such provision. It stated that the subject act does not contain any resolutions which would preclude the possibility of awarding authorized surveyors' licences to professionally active civil servants pro-

vided these fulfilled conditions necessary to receive such licences. The performing of the function of an authorized surveyor by a civil servant was forbidden only when negligence of professional duties in state civil services was noted.

This letter harmed the authorized surveyors' environment which while paying high taxes and other benefits was forced to complete with former civil servants relieved from such payments and collecting a monthly pension. Moreover, in such cases the issue of professional responsibility became illusive, as the civil servant-surveyor, being deprived by the voivod of his licence, was still left with the income from his previous profession, whereas the authorized surveyor was left with nothing.

However, the aforementioned letter presented an erroneous interpretation of the 1925 act, as in article 23 of the subject act the legislator clearly emphasised the possibility of awarding the title and licence of an authorized surveyor by the Ministry of Public Works to state civil servants having at least 25 years of experience in running the cadastre and being retired. Also, article 6 read that only state and autonomous civil servants who have worked in the area of land surveying for at least 10 years could be relieved from the qualification exam.

Yet another letter, although referring to the 1925 act but distorting it, was the circular of the Ministry of Agricultural Reforms of 16th March 1929 about the contracting of surveyors to perform integration-measurement works. The need to entrust integration works with administrative land surveying staff was specifically emphasised in this letter, suggesting that "such performance would be cheaper, quicker and better". And so to augment administrative land surveying forces the Land Office Presidents could contract freelance authorized surveyors. Moreover, this provision enabled the performing of integration works by foreigners what, even today would be very doubtful, as not only technical knowledge is needed during the reorganisation of the agricultural structure, the knowledge about social relations and human mentality is by no means trivial.

The Ordinance of the President of the Republic of Poland of 29th February 1928 was yet another legal provision amending the unfavourable initial contents of the statute about authorized surveyors. In this Ordinance, the performing of supervisory functions in land surveying was extended onto other authorities, with the parallel elimination of disciplinary commissions, what effected in the entrusting of professional surveyors' issues with quite frequently incompetent persons having no knowledge about the essence of the profession. The voivod still remained the supervisory organ issuing orders and judgements, provided any infringement of provisions by an authorized surveyor was observed. The voivod orders and judgments could be appealed to the Ministry of Public Works.

The appointing of the authorized surveyors' chamber and entrusting it with supervisory functions was to resolve the problem.

The unfavourable impact of the said documents could be observed during the inter-war period when majority of authorized surveyors performed works connected with the rebuilding of the agricultural system. The permanence status of the profession was becoming common, offices were set up next to Land Offices, and surveyors were employed there. Such offices were a strong competition to freelance authorized surveyors, displaced them from the work market, leaving only integration works to be done and these were more complicated and time-consuming, but less paid.

4. Land surveyors in the European Union

The problems of authorized surveyors are still present. The unorganised, agitated Polish geodesic environment operating on the grounds of legal provisions and outdated technical instructions, frequently invalid and inadequate to the economical changes, will not be given the proper rank and confidence of the European market.

The unification tendencies of the European Union are commonly known. They also concern the field of geodesy. The principles obligatory in Europe, regarding the education of candidates to perform the freelance occupation of a land surveyor or the awarding of licences differ from the Polish ones.

The Union trends assume the permission for independent performing of geodesic functions only by persons with an engineering education and having at least two-years professional experience. Whereas licences are only required when legal documentation is being set up. Any other geodesic activities have been considered technical *sensu stricto* and do not require any licences.

5. Conclusions

The act about authorized surveyors was valid between 1925 and 1952. With the enacting of the decree of 24th April 1952 about governmental geodesic and cartographic services [6] the statute lost its binding power. The beneficial period in the history of the land surveying profession is owed to the aforementioned act. It was then that the geodesic profession attained its highest rank.

This publication proves that cases of over-interpretation of the contents of the act, distorting the basic assumptions and intentions of the legislator were observed and these effectively depreciated the rank of the land surveyor profession.

Today's representatives of the geodesic profession, profiting from the experience of their predecessors should undertake effective actions to restore the prestige due to the land surveyor's profession and the proper rank of the profession within the European market.

The activities of the Polish geodesic environment should currently concentrate on:

- the proper construing of provisions concerning the awarding of professional licences in geodesy and cartography, so that persons receiving them would have proper qualifications and preparation to perform independent professional functions;
- the appointing of an organisation guarding and warranting the ethics of the profession, protecting the professional interests of the surveyor, especially now with the growing competition of the European market;
- the re-organisation of supervisory organs in geodesy and cartography, making them fully competent to resolve current problems of the geodesic environment, and capable of consequent execution of provisions of law with regard to persons being dishonest in their professional activities;
- the adjusting of legal provisions and technical instructions in geodesy and cartography to the current economical situation and technical progress, thus assisting in the performing of professional activities and not restricting them.

Until the implementing of the act amending the Geodesic and Cartographic Law there is still time for detailed analysis of controversial issues but of key significance to the surveyor's profession, and for drawing conclusions and undertaking proper decisions. This is especially significant now that Poland has become a member of the European Union enjoying its full rights.

References

- [1] Ustawa z 15 lipca 1925 roku o mierniczych przysięgłych (Dz.U. Nr 97 z 24 września 1925 r., poz. 682) [The act of 15th July 1925 on authorized surveyors]
- [2] Rozporządzenie Ministra Robót Publicznych w porozumieniu z Ministrem Reform Rolnych z dnia 28 czerwca 1926 roku o wykonywaniu ustawy o mierniczych przysięgłych (Dz.U. z 1926 r., Nr 71, poz. 412) [The act on authorized surveyors was warranted by the ordinance of the Minister of Public Works, issued in cooperation with the Minister of Agricultural Reforms]
- [3] Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 29 lutego 1928 roku zmieniające ustawę o mierniczych przysięgłych na podstawie art. 44, ust. 6 Konstytucji i ustawy z dnia 2 sierpnia 1926 roku o upoważnieniu do wydawania rozporządzeń z mocą ustawy [The ordinance of the President of the Republic of Poland of 29th February 1928 amending the act about authorized surveyors]
- [4] Pismo okólne Ministerstwa Reform Rolnych z 16 marca 1929 roku w sprawie przyjmowania na służbę kontraktową mierniczych do wykonywania prac scaleniowo-pomiarowych (L. Dz. 330/T) [The circular of the Ministry of Agricultural Reforms of 16th March 1929 about contracting surveyors to perform integration-measurement works]
- [5] Pismo Ministerstwa Robót Publicznych w sprawie wykonywania przez urzędników uprawnień mierniczych przysięgłych (L.I. – Os. 3196/28) [The letter of the Ministry of Public Works about the performing of authorized surveyors' works by civil servants]
- [6] Dekret z dnia 24 kwietnia 1952 roku o państwowej służbie geodezyjnej i kartograficznej (Dz.U. z 1952 r., Nr 24, poz. 162) [The decree of 24th April 1952 about governmental geodesic and cartographic services]