

## CHAPTER 8

### LEGAL BACKGROUND TO THE PROFESSION

This chapter aims to illustrate the legal framework in which civil engineers operate in their respective countries.

Three questions were asked of member organisations.

*Question 8.1 Are there legal restrictions to the functions?*

*Question 8.2 How are building and construction laws regulated?*

*Question 8.3 Is there personal liability for damage, defects etc.?*

<i>COUNTRY</i>	
<b>Croatia</b>	<p><b>Regulation of activity:</b> Company responsibility is regulated by the Building Law and the Civil Law. The contractor is responsible for all damage made to the Client, public property and individuals during construction work and within the subsequent guarantee period. If human lives are endangered or if great material damage occurs, criminal prosecution according to the Penal Code may also take place. In this case, contractor's employees responsible for damage, structural collapse or loss of human life or injuries may be prosecuted.</p> <p><b>Personal liability:</b> Personal responsibility for services offered lies with designers, supervision engineers and project control engineers who are members of the Chamber. They have an individual insurance policy which covers individual responsibility for errors committed during professional work. The annual fee is dependant on the size and complexity of work in which they are involved.</p>
<b>Cyprus</b>	<p><b>Legal restrictions to the functions and regulation of activity:</b> There are legal restrictions to the functions in Cyprus. The building and construction laws are enforced by the local authorities (municipalities or district offices) and the Department of Town Planning of the Ministry of Interior.</p> <p><b>Personal liability:</b> The design engineers have personal liability for damages, defects etc.</p>
<b>Czech Rep</b>	<p><b>Legal restrictions to the functions:</b> Civil engineers are generally governed by the same law as those for other people. Construction activity is also governed by Building law. Selected activities may be performed only by the persons who have a proven professional qualification.</p> <p><b>Regulation of activity:</b> Building and construction laws are regulated by law.</p> <p><b>Personal liability:</b> Liability for defects in construction or damage caused thereby is governed by common law.</p>

<p><b>Estonia</b></p>	<p><b>Legal restrictions to the functions:</b> All companies should have a licence in order to carry out design and construction work.</p> <p><b>Regulation of activity:</b> In Estonia there are two laws for regulating the building and construction process: The Planning Law and The Construction Law.</p> <p>All companies should have a licence in order to carry out design and construction work.</p> <p><b>Personal liability:</b> Responsibility for damage and defects is regulated by contract agreement and by insurance agreement.</p>
<p><b>Finland</b></p>	<p><b>Legal restrictions to the functions:</b> Certain functions e.g. designing &amp; engineering of load bearing structures have minimum educational requirements and minimum working experience requirements.</p> <p><b>Regulation of activity:</b> Ministry of Environment regulate all building and construction laws, except electrical works, which is regulated by Ministry of Industry.</p> <p><b>Personal liability for damage, defects etc.:</b> Personal liability in case of damage or defect or equal is not normally carried down to personal level but the company where person is working normally accepts this kind of liabilities (i.e. professional liabilities)..</p>
<p><b>France</b></p>	<p><b>Legal background to the profession:</b> The general rules in France are the “Code Civil” and “Code Pénal” which apply to everyone including Engineers.</p> <p><b>Regulation of activity:</b> There are many Rules and Regulations governing Construction. If infringed, these may contain sanctions which may require proofs in the Courts. Professional Engineers and construction firms must know these Rules and Regulations though they never supplant the Civil Law for construction work.</p> <p><b>Personal liability for damage, defects etc.:</b> Generally, damages are decided under the “Code Civil”. However, in special instances (Public and workers safety, fire protection, special dangers and risks, etc.), the Rules and regulations contain sanctions other than damages.</p> <p>The contractor is liable to the Owner for the quality of the construction and any defects that may become apparent over the first 10 years. He, in turn, can claim that the fault lies with the architect or the consulting engineer. The Court will then decide.</p> <p>Employers are always responsible for all consequences of their work and can not lodge any claim against any employee. The employer shall be insured during construction for any damage caused by the client, third parties or his own employee. This applies to engineering and consulting firms provided they have not entered into a contact appointing him or them personally.</p> <p>In this case, claims and charges of offence can be lodged against him or them as individuals. As such, engineers are responsible in cases of infringement of construction codes and if at fault. They are then liable to the other party to the contract. They shall be insured for any liability other than those accepted contractually by the other party? However, there is no obligation to engage a civil engineer.</p>

<p><b>Germany</b></p>	<p><b>Legal restrictions to the functions:</b> Yes, there are legal restrictions, for example the Building law of the state and of the federal states</p> <p><b>Regulation of activity:</b> Building and construction law are regulated by the supervision of building of the state, federal state and the local authority area.</p> <p><b>Personal Liability:</b> Yes, there is personal liability for damage, defects etc – it is regulated by common law.</p>
<p><b>Hungary</b></p>	<p><b>Legal restrictions to the function:</b> There are legal restrictions to the function (any indication of what these are?)</p> <p><b>Regulation of activity:</b> Building and construction laws are regulated by the Law on building and the defence of the environment.</p> <p><b>Liability:</b> There is personal liability for damage and defects.</p>
<p><b>Ireland</b></p>	<p><b>Legal restrictions to the functions:</b> There are legal restrictions. (Please clarify).</p> <p><b>Regulation of activity:</b> Regulation is by Statutory Bodies and Local Authorities.</p> <p><b>Liability:</b> This depends on case and circumstance. (Please clarify).</p>
<p><b>Italy</b></p>	<p><b>Legal background to the profession:</b> Private contracts are ruled by the Codice Civile (Civil Code) - Article 1655 and the following ones. Public contracts are ruled by law 11 February 1994, n. 109, as modified by law 2 June 1995, n. 216 concerning the implementation of public works.</p> <p><b>Regulation of activity:</b></p> <p><b>Liability:</b> Civil and environmental engineers are, presently, not obliged to take out an insurance policy covering the risks deriving by their professional activity.</p> <p>Only in public works, governed by Law 109/1994, engineers pursuing their designing activity as an employee of the public administration as well as free professionals shall take out an insurance policy.</p>
<p><b>Lithuania</b></p>	<p><b>Legal background to the profession:</b> Building activities are regulated by the Building Law.</p> <p><b>Regulation of activity:</b> All companies should have a licence for design and construction works.</p> <p><b>Liability:</b> Responsibility for damage and defects is regulated by contract agreement and by insurance agreement.</p>
<p><b>Poland</b></p>	<p><b>Legal restrictions to the functions:</b> Individual building authorization for civil engineers, obligatory membership in Polish Chamber of Civil Engineers for engineers in charge of independent technical activity.</p> <p><b>Regulation of building and construction activity:</b> This is carried out by means of the Polish Building Law and state authority represented by Main Office for Building Superintendence on local (district, region) and state level</p> <p>There is <b>personal liability for damage, defects etc.</b></p>
<p><b>Portugal</b></p>	<p><b>Legal restrictions to the functions:</b> Yes, there are legal restrictions to the functions.</p> <p><b>Regulation of building and construction activity:</b> Building and construction activities are regulated by law.</p> <p><b>Personal liability for damage, defects etc</b> There is personal liability for damage, defects etc. at design and construction. Engineers should have a professional insurance.</p>

<b>Romania</b>	<p><b>Legal restrictions to the functions:</b>The only recognised qualifying bodies for the profession are the Universities. There is no legal code governing the protection of the profession. There are no legal restrictions on what functions may be performed by civil engineers.</p> <p><b>Regulation of the sector:</b> Construction activity is regulated by the Law of Quality in Constructions (Law No. 10 of 18 January 1995) and by a large number of technical Rules and Regulations.</p> <p><b>Liability:</b> There is a personal liability for damages.</p>
<b>Russia</b>	

<p><b>Slovak Rep.</b></p>	<p><b>Legal Restrictions to the Functions:</b> The Slovak legislation determines the general rules for civil engineers (as natural and legal persons). Civil engineers are generally governed by Civil Code, Trade Code and Act No. 409/2004 Coll. on small business.</p> <p><b>Regulation of Activity:</b> Activities in this field are regulated by law, e.g.:</p> <ul style="list-style-type: none"> <li>- Building Act No. 50/1996 Coll. as amended by subsequent regulations (in this act the Council Directive No. 89/106/EEC on Construction Products is implemented),</li> <li>- Act No. 138/1992 Coll. (§ 12) on authorized architects an authorised civil engineers,</li> <li>- Act No. 608/2003 Coll. on state administration for territorial planning, building order and housing,</li> <li>- Act No. 330/1996 Coll. on safety and health protection,</li> <li>- Act No. 95/2000 Coll. on labour inspection etc.</li> </ul> <p>Furthermore, there is also the Statute of the Slovak Chamber of Civil Engineers.</p> <p><b>Personal Liability:</b> According to the Act No. 138/1992 Coll. (§ 12) on authorized architects an authorised civil engineers as amended by subsequent regulations, authorized engineers are obliged to buy liability insurance regarding the damage that may arise in connection to their activities and activities of their employees. They are obliged to insure themselves in 10 days after their registration to the list of authorized engineers and notify the Slovak Chamber of Civil Engineers of doing so.</p> <p>Furthermore, the liability arises also from the Labour Code.</p> <p><b>Legal Restrictions to the Functions:</b> The Slovak legislation determines the general rules for civil engineers (as natural and legal persons). Civil engineers are generally governed by Civil Code, Trade Code and Act No. 409/2004 Coll. on small business.</p> <p><b>Regulation of Activity:</b> Activities in this field are regulated by law, e.g.:</p> <p>Building Act No. 50/1996 Coll. as amended by subsequent regulations (in this act the Council Directive No. 89/106/EEC on Construction Products is implemented),</p> <p>Act No. 138/1992 Coll. (§ 12) on authorized architects an authorised civil engineers,</p> <p>Act No. 608/2003 Coll. on state administration for territorial planning, building order and housing,</p> <p>Act No. 330/1996 Coll. on safety and health protection,</p> <p>Act No. 95/2000 Coll. on labour inspection etc.</p> <p>Furthermore, there is also the Statute of the Slovak Chamber of Civil Engineers.</p>
---------------------------	---

<p><b>Turkey</b></p>	<p><b>The legislation system</b> on Civil Engineering profession in Turkey has defected applications and regulations. There are various law arrangements for civil engineering functions, but most of the control issues are left out from these legislations.</p> <p><b>Building and construction regulations</b> are handled by Ministry of Prosperity. Although TCCE is an affective body for the law regulations, the general unstable political situation of Turkey leads to unstable legislation applications. Recent advances in construction regulations are not enough certainly, but feature a step in the long-time stagnant understanding of the government.</p> <p>Thus, <b>liability</b> is an unsolved problem for Turkish Civil Engineering sector. Personal liabilities are bounded but not well defined officially. The results of this problem are seen clearly after earthquakes, and encountered often as Turkey is a seismic region.</p> <p>New legislation arrangements and regulations studies, which are held related to EU legal framework, will possibly result soon. Within the meetings held by our Chamber and the Ministry, legal penalties related to service areas and liability duration issues are handled. The results of these meetings indicate that the personal liability duration would probably be 15 years. These studies and improvements provide the personal liability understanding regulations in Turkey to be more specific and valid in a short term progress.</p> <p>Insurance is an important part of legal aspects of civil engineering, on which studies are ongoing. Earthquake related problems have made clear examples of lack of specific insurance stabilities. This issue will be handled in title (chapter) 11.</p>
<p><b>United Kingdom</b></p>	<p>There are no <b>legal restrictions</b> as such to the functions that can be carried out by engineers. However, many aspects of English and Scottish law have an impact on professional practice.</p> <p><b>Regulations:</b> With regard to building activities, there are separate Building Regulations for Scotland and England/Wales, which state that certain design calculations have to be certified by a person who is "authorised by the appropriate designated authority in accordance with the European Communities (Recognition of Professional Qualifications) Regulations 1991 to practice the profession of chartered civil engineer or chartered structural engineer in the United Kingdom". This normally applies to larger public projects.</p> <p><b>Liability:</b> According to the current legislation on Health and Safety at Work, liability is absolute and rests with whoever is responsible for the breach.</p>