



1. Concluded procedures with approved text or concluded with regard to formulation

1.01. Laws and other regulations

1.01.01. Laws

The Law on Architecture

200-00003/11

APPROVAL

Plenary session of the Parliament 38, 28.06.2017, DSPC-P 71

The Plenary Session of the Parliament held on 28 June 2017 has debated the Opinion of the Territorial Commission with regard to the Draft Law on Architecture (proced. 200-00003/11) and the amendments reserved for parliamentary groups].

Finally, pursuant to Article 55.2 of the Statute of Autonomy and to Articles 121 and 122 of the Regulations of Parliament, the following law has been approved:

The Law on Architecture

Preamble

This Law falls within the exclusive powers of the Government of Catalonia with regard to territorial and landscape planning and town planning, matters that include, in all cases and respectively, the establishment of instructions on the planning and managing of the territory and of the landscape, and of the actions that impact thereupon, and the scheme for administrative intervention in building, development, and the use of the land and the subsoil, pursuant to Sections 1.a and 5.d of Article 149 of the Statute of Autonomy of Catalonia.

Furthermore, Article 159.3 of the Statute of Autonomy assigns to the Government of Catalonia powers with regard to procurement by the bodies of the Catalan public administrations, within the framework of basic legislation on the matter.

The aims of this Law are based principally on the position expressed by the European Union in the Council Resolution of 12 February 2001, on architectural quality in urban and rural environments (2001/C 73/04), which states that the cultural dimension and the quality of the physical treatment of space should be taken into account in Community regional and cohesion policies, and that architecture is an intellectual, cultural, artistic and professional activity. An architectural service is therefore a professional service which is both cultural and economic, on the understanding that architecture and, most especially, planning, require the participation of and collaboration between a range of professional disciplines, such as architecture, technical architecture, engineering, technical engineering, sociology, ecology, economics, geography and advocacy, which are vital for covering the complexity of the architectural, planning and landscaping process.

Also noteworthy in said Council Resolution is the recommendation for Member States to intensify their efforts to improve the knowledge and promotion of architecture and urban design, and to make contracting authorities and the general public more aware of and better trained in the appreciation of architectural, urban and landscape culture. In this regard, the Resolution argues that the specific nature of architectural service be taken into account in the decisions and measures that require it, to promote architectural quality by means of exemplary public building policies and the exchange of information and experience in the field



of architecture.

Additionally, Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005, on the recognition of professional qualifications, states that “architectural design, the quality of buildings, their harmonious incorporation into their surroundings, respect for natural and urban landscapes and for the public and private heritage are a matter of public interest”.

Furthermore, consideration must be given to the Council Conclusions of 24 May 2007 on the contribution of the cultural and creative sectors to the achievement of the Lisbon objectives (2007/C 311/07), which emphasizes how cultural activities and the creative industries, which include architecture, play a critical role in boosting innovation and technology, and are key engines of sustainable economic growth and social cohesion.

Also, the Council Conclusions on architecture: culture’s contribution to sustainable development (2008/C 319/05) take account of the fact that “Europe’s towns and cities today face major challenges: demographic change and its implications for urban sprawl, environmental issues and climate change mitigation, maintaining social cohesion, particularly against a background of economic and cultural change, and the protection and development of architectural and cultural heritage” and that “the way to respond to those challenges is by means of sustainable urban development, a creative, integrated approach under which culture, economics, social affairs and the environment each play an equally important part”. It also states that sustainable urban development means, amongst other actions, “paying particular attention to architectural quality and diversity as aspects of cultural diversity, to heritage conservation and enhancement and to the individual identity of natural or urban landscapes”. The same Council Conclusions call on Member States to:

- endeavour to have architecture play an integrating and innovative role in the sustainable development process, beginning with the design stage of architectural, urban planning, landscaping and rehabilitation projects;
- help develop the economic growth and employment potential of architecture, as a creative, cultural industry;
- promote education in architecture and heritage, and in the living environment, in particular through artistic and cultural education;
- promote the initial and further training of architects, urban planners and landscapers as regards sustainable development.

What is more, note should be taken of Decision No. 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community’s greenhouse gas emission reduction commitments up to 2020, which establishes binding international targets for the reduction of CO₂ emissions, and Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings, Articles 6 and 7 of which establish that Member States must guarantee, for new buildings and major renovations, and before construction starts, the technical, environmental and economic feasibility of high-efficiency alternative systems. Article 9 of the same Directive establishes that Member States shall ensure that, by December 2020, all new buildings are nearly zero-energy buildings, and that, after 31 December 2018, new buildings occupied and owned by public authorities are nearly zero-energy buildings.

Similarly, account should be taken of Commission Recommendation (EU) 2016/1318 of 29 July 2016 on guidelines for the promotion of nearly zero-energy buildings and best practices to ensure that, by 2020, all new buildings are nearly zero-energy buildings.

Lastly, 28 March 2014 saw publication in the *Official Journal of the European Union* of Directive 2014/24/EU of 26 February 2014 on public procurement, repealing Directive 2004/18/EC, which, amongst other aspects, seeks that, in selecting the most advantageous tender in public procurement tendering processes and in the evaluation of price-quality ratios, priority may be given to quality or environmental



and social aspects.

In this regard, within the basic legislative framework for public sector procurement, this Law minimises the importance of economic considerations and provides full support for qualitative aspects above price or cost in calls for ideas competitions and tenders for the formulation of designs. Additionally, this Law considers that, pursuant to Directive 2004/17/EC of the European Parliament and of the Council, there is a need to revise and modernise current regulations to increase the efficiency of public expenditure, facilitating, in particular, the participation of small and medium-sized enterprises in public procurement processes, and to allow contracting authorities to better use public procurement in support of common social objectives.

Based on these foundations, the aims of this Law are to highlight and place value on the public role of architecture and planning and to distinguish them as the basis for wellbeing and social cohesion, environmental improvements, energy efficiency and the reduction of greenhouse gases, as elements that help build the country's identity, based on the European experience, duly adapted to the realities of Catalonia. Additionally, public procurement mechanisms are established to foster architectural quality.

Turning to other matters, although "town planning" is etymologically associated with the planning of towns and cities, the reality of the situation indicates that the majority of phenomena taking place within municipalities are, from a physical standpoint, directly related to their immediate hinterland, which is why, from the middle of the 20th century, planning thought has gradually been incorporating the interrelation with the physical planning of areas larger than municipalities and economic planning, not to mention an environmental perspective. That is why, today, planning takes a global perspective of the relationship between people and the medium in which they exist, making the management of land its cornerstone. This makes it necessary to ensure that town planning fits with the goals of architectural quality and of the resulting urban areas, when its decisions are implemented, as established by the Leipzig Charter on Sustainable European Cities, approved at the informal meeting of ministers responsible for urban development and territorial cohesion in Leipzig on 24 and 25 May 2007: "[...] In the long run, cities cannot fulfil their function as engines of social progress and economic growth as described in the Lisbon Strategy unless we succeed in maintaining the social balance within and among them, ensuring their cultural diversity and establishing high quality in the fields of urban design, architecture and environment [...]"; "[...] the interaction of architecture, infrastructure planning and urban planning must be increased in order to create attractive, user-oriented public spaces [...]".

This Law is arranged into three chapters, a transitional provision and two final provisions.

Chapter One, on general provisions, contains the Law's object, defines architecture and its values for the purposes of this Law, formulates the aims and establishes that architecture is of public interest.

Chapter Two establishes the measures for the dissemination of architecture and for the fostering of architectural quality. It is divided into two sections.

Section One deals with the measures for the dissemination, awareness raising and understanding of architecture on the part of the public administrations.

Section Two establishes the measures for the promotion of architectural quality on the part of Catalonia's public administrations; the creation of the Premis Catalunya (Catalonia Awards) for Architecture and Built Heritage, in recognition of the best contributions to architecture, the architectural process and architectural quality; and also the creation of the Council for Architectural and Planning Quality of Catalonia, as an advisory and consultative body to the Administration of the Government of Catalonia in the field of architectural quality. This section also governs the consultative bodies on architectural quality for local administrations.

Chapter Three, on complementary procurement regulations, emphasises the need to encourage simultaneous and coordinated collaboration between all the professional disciplines participating in the architectural process, to ensure the utmost continuity between the design phase of a project and the execution of the work, so that architectural quality is a goal shared between all of these phases. This chapter



is divided into two sections.

Section One stipulates the general provisions on the procurement of the architectural process, as a complete and complex procedure that covers planning, design, project management (*direcció d'obra*) and construction management (*direcció d'execució d'obra*), the execution of constructions and the urbanisation of public areas, which requires a multidisciplinary input that is consistent with the objectives set by the contracting authority.

This first section establishes those subject to the law and procurement arrangements, compliance with the values inherent in architecture, criteria for the evaluation of the technical bids and guide values to calculate the estimate tender values of the different contracts associated with the architectural process. Additionally, it establishes the makeup and operating rules for the jury for ideas competitions and for design tenders for the procurement of architectural process services, which must encourage the multidisciplinary presence of expert professionals. Furthermore, this section bolsters the transparency and disclosure of the procurement of the architectural process, and responsibility in the management of projects and the execution of works.

Section Two of Chapter Three governs the specific provisions for procurement arrangements. It thus stipulates the specific provisions for architecture ideas competitions aimed at guiding the Administration's decision to intervene in territorial situations in which the assumption of different values and alternative design scenarios may lead to very different results.

It also governs the specific provisions for procurement of the architectural process. Firstly, it establishes that architecture ideas competitions shall be carried out by means of the open design competition process.

It then makes optionally possible the joint procurement of the formulation of designs and project management, which, in addition to consolidating something that is common practice in both the public and private sectors, contributes to efficiency and improved quality in the architectural process, given that it permits, in a process of this nature and complexity, the application to the works of knowledge set forth in the design's formulation in conditions that can guarantee the qualitative parameters set forth there, and facilitates the economic control of the works.

Additionally, it establishes as a general criterion for procurement of the architectural process the use of design tenders with selection of the number of participants, in which candidates must be invited to submit bids. Such arrangements have the goal of guaranteeing and propitiating the tender process, to promote the values of architectural quality promoted by this Law.

It also enhances the conditions for participation in architectural process design tender procedures, so as to permit real and effective competition and encourage free access and real equality of conditions, by means of the participation of small firms, young professionals and other groupings.

Additionally, it establishes the specific provisions regarding the admissibility of variations or improvements to the architectural design on the part of the winning company in construction contracts, which must request a report from the companies or professionals that issued the project.

This section also covers the specific provisions for joint procurement in the design and execution of the works, of the awarding of the tender for the construction and operation of the architectural process works, and of the specific provisions regarding the criteria associated with the values inherent in architecture in the procurement of the formulation of planning and urbanisation project instruments, given their close and inseparable link with architectural quality, sustainability, energy efficiency and the reduction of greenhouse gases.

This Law is complemented with a transitional disposition concerning the procurement cases governed by it that have been commenced prior to its entry into force, to which the specific provisions it establishes are not applicable.

Finally, the first of the two final provisions guarantees the neutrality of the Law with regard to the powers and competencies of a range of professional groups that play a role in architectural processes, whilst



the second empowers the Government of Catalonia to adapt downwards the limit for establishing the cases for contracts for the architectural process services subject to this Law.

Chapter I. General provisions

Article 1. Object

The object of this Law is to establish measures to encourage and promote architectural and planning quality, and for the procurement of the formulation of designs, for the management and execution of constructions and the urbanisation of public areas, excluding civil engineering works governed by public works legislation, for their implementation by Catalonia's public administrations and the entities, bodies and undertakings reporting to them.

Article 2. Architecture and its values

1. For the purposes of the provisions of this Law, "architecture" is defined as the result of designing, managing, constructing, rehabilitating and maintaining, throughout their life cycle, the buildings and public urban areas arising from the processes of managing and implementing town planning, in which human activity is carried out, with the collaboration and partnership of a range of professional disciplines to encompass all its complexity.

2. Planning, defined as a global perspective of the relationship between human settlements and the environment in which human activities are carried on, and town planning, defined as a technique that integrates physical with economic and environmental planning, and in which a range of professional disciplines participate to resolve all its complexity, have an impact upon architecture, in that they contribute to the configuration of urban public areas and constructions.

3. The values inherent in architecture, which this Law seeks to protect, are:

- a) The suitability and technical quality of constructions for their planned uses and, as the case may be, for accepting additional functionalities or for adapting thereto over their life cycle, and also the suitability of the maintenance of said constructions.
- b) The improvement of people's quality of life, ensuring a safe, accessible environment for their wellbeing and comfort.
- c) Contribution to social cohesion and an improved relationship between the public and their artistic and cultural dimension.
- d) The adapting of urban settlements or open areas into line with the surroundings and the landscape.
- e) Environmental, economic and social sustainability, and a collective commitment to the energy efficiency of buildings and reducing greenhouse gases.
- f) Beauty, artistic interest and their contribution to the cultural debate.

4. Architectural quality is measured by the optimal, weighted and efficient meeting of each and every one of the values defined in Paragraph 3 by a design project and the resulting works, on a unitary and global basis, with regard to both the diversity of the aspects that need to be taken into account and the continuation of the creative process from the initial design to the completion of the works, and must integrate in all its phases the facet of the operation and proper maintenance of buildings and public areas.

Article 3. Goals

This Law has the following goals:

- a) To promote the dissemination and fostering of the values of architecture and town planning.
- b) To assert the value of existing built heritage and boost the public's understanding of it.
- c) To encourage innovation, creativity and quality in architecture, and to provide an ongoing guarantee of the framework necessary to further architecture's inherent values, particularly by means of the use of technological instruments applied to the construction process that permit the availability of information integration models for buildings.
- d) To promote education on architecture and built heritage and their impact on living conditions and the



quality of life, and also the importance of their maintenance whilst operational.

e) To promote the integrating and innovative role of architecture in building processes and its execution, and also its potential for encouraging sustainable development, energy efficiency and the reduction of greenhouse gases.

f) To contribute to the development of the economic growth and employment potential of architecture.

g) To establish measures in the administrative procurement of the entities, bodies and undertakings making up Catalonia's public sector and subject to public sector procurement legislation, to enhance the values of architectural quality defined in Article 2 throughout the entire process of the architectural creation, operation and maintenance of buildings.

h) To foster the simultaneous and coordinated participation of all the professional disciplines taking part in the architectural process, respecting the professional functions arising from applicable building and planning legislation, to achieve the utmost continuity between the architectural conception and design stage and the carrying out of the works, such that architectural quality is the common goal and responsibility of all of them.

i) To assess architecture's value as something intrinsically linked to the historical configuration of the landscape, due both to its heritage- and identity-related values and its construction-related characteristics that are respectful of the surroundings.

Article 4. Architecture as an item of public interest

Architectural creation is of public interest, in accordance with the values referred to in Article 2. Catalonia's public administrations must disseminate and promote it, pursuant to this Law.

Chapter II. Measures for the dissemination of architecture and the promotion of architectural quality

Article 5. General provision

Catalonia's public administrations must foster the values of architecture and architectural quality, and their recognition and promotion. To this end, they must adopt measures for:

a) The dissemination, awareness raising and understanding of architecture and built heritage, in terms of the values set forth in Article 2.

b) The fostering of architectural quality.

Section One. Measures for the dissemination, awareness raising and understanding of architecture

Article 6. The dissemination of architecture

1. Catalonia's public administrations must encourage actions in the fields of research and debate into architecture, in accordance with the values established in Article 2.

2. The Administration of the Government of Catalonia must adopt the following measures:

a) Encourage the issuing of publications on research into and the dissemination and recognition of the architectural quality of buildings and public areas.

b) Promote the teaching of architecture and built heritage, in their multidisciplinary facet, and of the aspects impacting on people's quality of life.

c) Encourage the bodies with powers in the fields of international relations and the Catalan ministries associated with architectural quality to adopt, with the collaboration of the organisations of professionals involved in the architectural process, the coordination measures and programmes required for the international support and promotion of architecture.

d) Promote innovation in and the understanding of architecture by means of research, training and dissemination.



Section Two. Measures for the promotion of architectural quality

Article 7. The promotion of architectural quality

1. Catalonia's public administrations must promote architectural quality, research and innovation within the scope of their activities.

2. The Administration of the Government of Catalonia must promote measures for the distinction of the architectural quality of contemporary buildings and public areas and of built heritage.

3. Local administrations must, within the scope of their powers and responsibilities, adopt the measures for encouraging and promoting architectural quality in municipalities by means of town planning decisions, the promotion of actions for improving quality and the inclusion of architectural quality-specific criteria in procurement term sheets for designs, project management, construction management and works execution, and also in the urbanisation of public areas.

4. The measures referred to in Paragraph 3 may be specifically applied by means of the following instruments:

a) The formulation, modification or revision of general town planning, to identify and delimit the fields subject to special measures for improving the architectural quality of urban buildings and complexes, and the specific implementation of these measures.

b) The approval of municipal by-laws contemplating specific measures for the improvement and preservation of the architectural quality of buildings.

c) The carrying out of specific actions designed to improve the urban landscape.

d) The establishment or awards, prizes and acknowledgements for good practices granted to professional groupings and natural and legal persons involved in the architectural process.

e) The fostering of public participation in the understanding and dissemination of architectural quality.

Article 8. The Premi Catalunya for Architecture and Built Heritage

1. The Premis Catalunya for Architecture and Built Heritage are hereby created, with the goal of acknowledging the most outstanding contributions to architecture, the architectural process and architectural quality.

2. The Government of Catalonia must establish by means of regulations the legal regime, frequency, financial endowment and specific aspects of the Premis Catalunya for Architecture and Built Heritage.

Article 9. The Council for Architectural and Planning Quality of Catalonia

1. The Council for Architectural and Planning Quality of Catalonia is hereby created, as an advisory and consultative body to the Administration of the Government of Catalonia on architectural and planning matters.

2. The composition and workings of the Council for Architectural and Planning Quality of Catalonia must be established by means of regulations. This Council is presided by the Catalan Minister responsible for territorial matters, and its composition must guarantee that, in addition to the Administration of the Government of Catalonia and local bodies, it includes representatives of the different professional disciplines involved in the architectural process and in town planning, and those associated with built heritage, and it must endeavour to respect parity between men and women.

3. The functions of the Council for Architectural and Planning Quality of Catalonia are:

a) To advise and inform the Government of Catalonia on matters associated with architectural and planning quality, particularly with regard to the aims established by this Law.

b) To issue reports in fields that are unique or of special interest due to their historical, artistic, social, landscape-related and environmental value, as established in regulations.

c) To propose the architectural quality-related technical criteria and content that must be taken into



account by competent bodies in the administrative management and procurement of works of architecture.

d) To issue annual assessment reports on the results and proposals for action for the application of this Law and compliance with its aims.

e) To propose improvements in actions and, if appropriate, modifications to regulations required to comply with the aims of this Law.

f) To advise on and propose the Premis Catalunya for Architecture and Built Heritage.

g) To propose the educational content on architecture in university courses and other levels of the education system with regard to its impact on the urban and social environment.

h) To propose actions to foster technical research and innovation in the field of architectural quality.

i) To recommend lines of teaching to improve architecture-related studies at universities for the different qualifications involved in the architecture process.

j) To coordinate with the Council for Housing Quality, Sustainability and Innovation in the field of public housing developments.

Article 10. Consultative bodies on architectural quality for local administrations

1. To implement the goals of architectural quality defined by this Law, Catalonia's local administrations may create consultative bodies on architectural and planning quality. The composition of these bodies must include representatives of the different professional and business fields participating in or associated with the architectural process, planning and built heritage, and must endeavour to respect parity between men and women. Municipalities of less than twenty thousand inhabitants may request that district councils create architectural quality consultative bodies.

2. In the general town planning cases established in Article 7.4.a, the local administrations' architectural and planning quality consultative bodies must issue, prior to the granting of planning permission, a mandatory report with regard to the specific measures decided upon with regard to architectural quality for the execution of new building, rehabilitation or renovation work that alter its architectural configuration and that require a technical design project pursuant to legislation on the matter. This report must be requested and issued simultaneously with the municipal technical reports. If this report is not issued by the contemplated deadline, actions to grant planning permission may continue.

Chapter III. Complementary procurement regulations

Section One. General provisions

Article 11. Procurement of the architectural process and of town planning instruments

1. For the purposes of the provisions of this chapter, the "architectural process" is defined as the complex and complete process encompassing the planning, design, project management, construction management and execution of the buildings and urbanisation of public areas that, based on the goals of architectural quality that must govern them, require a multidisciplinary implementation consistent with the stipulated requirements, pursuant to the objectives and criteria established by the process's contracting authority.

2. "Town planning instruments" are defined as the plans and programmes with the contents established by planning legislation.

Article 12. Parties subject to the Law and procurement arrangements

1. The entities, bodies and undertakings making up Catalonia's public sector subject to legislation on public procurement must procure the architectural process and town planning instruments in accordance with the aforementioned legislation, with the specific provisions established by this chapter for the following arrangements:

a) Competitions for architecture and town planning ideas.



- b) The procurement of architecture process services.
 - c) The joint procurement of the formulation of the design and the execution of the works and the awarding of the construction and operation of the works of the architectural process.
 - d) The procurement of the formulation of town planning instruments and of urbanisation projects.
2. The contracts of letters b, c and d are subject to the specific provisions established in this chapter when they require a new building, rehabilitation or renovation design defined by building regulation legislation with an estimated contract value of 60,000 euros or more. Also subject to the provisions of this chapter are the aforementioned contracts of a lower estimated value, if the contracting authority so resolves on a duly-motivated basis, in light of their uniqueness or importance.

Article 13. Evaluation criteria

1. The Government of Catalonia must, at the proposal of the Council for Architectural and Planning Quality of Catalonia and with the prior reports of the Administrative Procurement Advisory Board and the Local Government Commission of Catalonia, approve by means of a resolution indicative criteria with regard to:

a) The evaluation criteria for technical bids that incorporate values inherent in architecture and permit the establishment of the most advantageous bid on the principles of non-discrimination and objectivity, provided that said criteria are directly linked to the contract's object.

b) The guide values, based on published benchmark market values of the estimated prices of the different service agreements associated with the architectural process and town planning instruments and those of the execution of the works, to calculate the estimated tender value.

2. The indicative criteria referred to in Paragraph 1 must be taken into account in tenders for the procurement of the architectural process established in Article 12.

3. The terms sheet must include social clauses with regard to the bidders' professionals and employees.

4. In all cases, the evaluation criteria must include the buildings' maintenance costs.

5. Should, to demonstrate technical solvency, there be a requirement for a review by the contracting authority or, on the behalf thereof, by an official or approved body to assess compliance with quality assurance standards, submission of the certifications established by public procurement legislation may be demanded.

Article 14. Jury composition and operational rules

1. The composition of juries for ideas competitions and tenders for architectural process service contract designs and for town planning instruments must encourage the multidisciplinary presence of professionals to guarantee the achievement of this Law's quality objectives, pursuant to legislation on public sector procurement, and, in all cases, respect for parity between men and women must be pursued.

2. At least one third of those who must take part in juries for ideas competitions and tenders for architectural process service contract designs and for town planning instruments must be chosen, at random, from amongst the accredited professionals included to this end in the listings established by the professional institutes or associations contemplated in the legislation applicable to this matter. In this regard, jury selection must respect the principals of professionalism, specialisation, relationship with the object of the contract, impartiality and independence.

3. The remuneration or allowances provided to the members of the juries referred to in Paragraph 2 must be contemplated, in accordance with the procedure established by regulations.

4. The composition of the juries participating in ideas and design competitions projects must be disclosed pursuant to the provisions of public sector procurement regulations.

5. Juries for ideas competitions and tenders for architectural process designs and for town planning instruments are subject to the same system of incompatibilities, abstention and recusing established by the regulations for the authorities and staff serving the public administrations involved in procurement



procedures.

Article 15. Transparency and disclosure of procurement of the architectural process and town planning instruments

The minutes of the juries taking part in procurement procedures are made public to disclose the motivations and criteria supporting their decisions, and must include dissenting votes, if there are any. Bids in the form of graphics and the results of the tender process must be published on the procurement portal of the competent entity, body or undertaking, on the Transparency Portal and on the Public Procurement Services Platform.

Article 16. Responsibility in project and construction management

1. The person responsible for the contract and the construction manager must ensure that the values inherent in the project's architecture and execution, established in the technical specifications term sheet, and any other documentation forming the basis for the tender process, awarding and subsequent performance of the contracts, are present and respected throughout the entire process of performing the service of formulating the design and executing the works.

2. In works contracts, the powers of the person responsible for the contract are, pursuant to public sector procurement regulations, regarded as being without prejudice to the specific and independent functions and responsibilities of the project manager and construction manager and, if applicable, the health and safety coordinator, pursuant to their specific competences assigned by building regulation legislation, without prejudice to the coordination and collaboration of all the professionals with regard to compliance with the values defined in Article 2.

Section Two. Specific provisions on procurement arrangements

Article 17. Specific provisions for architecture and town planning ideas competitions

1. Architecture and town planning ideas competitions may only be called when it is necessary to have ideas or proposals to guide the decision of Catalonia's public sector to intervene in territorial situations in which the assumption of different values and alternative design scenarios may lead to very different results.

2. Architecture and town planning ideas competitions must be organised by means of the system of design competitions with prizes or payments and the involvement of a jury.

3. Should the entities, bodies and undertakings making up Catalonia's public sector wish to contract design formulation services, a public call for tenders must be issued. Exceptionally, and due to the design project's specific nature, the contracting authorities may choose, on a duly motivated basis, the procurement of design formulation services and, if applicable, project management services, pursuant to Article 18.1, by means of a negotiated procedure with the person winning the ideas competition, provided that this arrangement is explicitly contemplated in the competition's term sheets. If the competition has a number of different winners, they must all be invited to take part in the negotiations.

4. The ideas competition term sheets must establish the requirements, characteristics and scales of representation to properly illustrate the idea designed by each participant, establish the prizes or gratifications and specify the provisions on intellectual property rights. The documentation requested of participants must be proportional to the object of the ideas competition and proper mechanisms for simplifying submission procedures must be established.

5. The design ideas winning the competition and the submitted documents may be used in public participation processes.

6. For the purposes of constituting the jury in architecture and town planning ideas competitions, contemplated in public procurement legislation, up to five professionals of recognised competence must be appointed pursuant to the stipulations of Article 14.



Article 18. Specific provisions for architectural process services procurement

1. In the procurement of architectural process services by Catalonia's public sector, the formulation of designs and project management may optionally be procured on a joint basis.

2. Tenders must be organised using the arrangement of a design tender restricted to a limited number of participants and with the involvement of a jury, with the subsequent contracting of the design formulation service and, if applicable, project management, by means of a negotiated procedure with the person or persons that win the design tender. To initially select participants in the design tender, the tender term sheets and the call for tenders announcement must establish clear and non-discriminatory criteria for the selection of participants in the design tender, taking into consideration, amongst other aspects, the technical know-how, experience and reliability of participating professionals and companies, and the qualifications or specific knowledge associated with the object of the contract.

3. A minimum or maximum number of participants may be established, either in general or by arrangement type, depending upon each selection criteria, for the purposes of fostering diversified participation that must, in all cases, permit a sufficient number of candidate companies or professionals to guarantee competition.

4. The architectural process services procurement term sheets:

a) May establish different phases for the formulation of the different types of designs and must establish the associated implementation schedule.

b) Must introduce, to evaluate the most advantageous bids, in addition to economic aspects, evaluation criteria that incorporate the values inherent in architecture, provided that they are linked to the object of the contract. These architectural quality criteria must always receive a predominant evaluation with regard to the total score established in the administrative term sheets.

c) They must incorporate a stipulation concerning the manner in which bidders invited to submit bids in restricted tender arrangements, who have not won the tender, are to be compensated, in whole or in part, in proportion to the requirements stipulated for the bid in the term sheet.

5. The jury, which must be constituted to rate the evaluable aspects by means of value judgement not evaluable by means of automatic criteria, shall be governed by the provisions of Article 14.

6. Procurement of the construction management service and, if applicable, the health and safety coordination service, must be subject to a tender independent of that for the procurement of the design and of the project management, established in Point 1, without prejudice to the coordination and collaboration of all the professionals involved in the architectural process.

Article 19. Specific provisions regarding the admissibility of variations or improvements to the architectural design in works contracts

1. The contracting authority may establish, in the individual administrative term sheets of the contract for the execution of the works, the possibility of bidding firms submitting, pursuant to the provisions of public sector procurement regulations, variations or improvements with regard to architecture's inherent values.

2. The winning bidder must, by the deadline and in accordance with the conditions established in the individual administrative term sheets, submit the design project for the variations or improvements for review and, as the case may be, approval. For the approval of the variations or improvements offered, a report must be requested from the companies or professionals that formulated the architectural design. The award deadline must under no circumstances experience variations as a consequence of the approval of this project.

Article 20. Specific provisions for joint procurement of the formulation of the design and the execution of the works, and of the awarding of the construction and operation of the architectural process work



1. Joint procurement of formulation of the design and execution of the work is exceptional in nature and shall only be admissible in the cases established by public sector procurement legislation.

2. In the cases referred to in Paragraph 1, the entities, bodies and undertakings making up Catalonia's public sector subject to public procurement legislation must draw up a supporting report that specifies, in addition to the reasons justifying the adoption of this arrangement, the architectural quality requirements and criteria that must be taken into account in the contract award procedure. In such cases, the administrative term sheets, technical specifications and any other documentation providing the basis for the tender process, awarding and subsequent performance of the contracts must establish as an obligation of the successful bidder the necessary coordination and collaboration between the party formulating the architectural design and the project manager.

3. The technical term sheets, preliminary designs and any other documentation providing the basis for the tender process, awarding and subsequent execution of the procedures for the awarding of the construction and operation of the architectural process work must incorporate the architectural quality requirements and criteria that must be taken into account in the tender.

Article 21. Specific provisions for procurement of formulation of town planning instruments and urbanisation projects

In procurement procedures, be they open or restricted, associated with the formulation of town planning instruments or urbanisation projects, account must be taken, in addition to economic aspects, of the binding criteria defined in Article 2. These architectural quality criteria must receive a predominant evaluation with regard to the total value established in the administrative term sheets.

Transitional provision

Sole. Procurement cases

The procurement-related specific provisions established by this Law are not applicable to procurement cases initiated prior to its entry into force.

Final provisions

One. Effects of this Law on professional groupings

This Law does not under any circumstances imply any reservation of activity, nor any expansion or restriction of competencies for any professional grouping, or alter the functions assigned thereto by applicable laws.

Two. Adaptation of the limits in cases of procurement of architectural process services

The Government is empowered to adapt downwards the limit established in Article 12.2 for establishing the cases of architectural process service contracts subject to this Law.

Palau del Parlament, 28 June 2017

The Third Secretary, Joan Josep Nuet i Pujals; the President, Carme Forcadell i Lluís