

LAW

8/2005, of June 8, on landscape protection, management and planning.

The President of the Government of Catalonia

Be it known by all citizens that the Parliament of Catalonia has approved, and I in the name of the King and in accordance with the provisions of article 33.2 of the Statute of Autonomy of Catalonia, enact the following

LAW

Preamble

I

Catalonia has a great wealth and diversity of landscape. Geology, orography and climatology as well as other natural factors together with human action have given the territory of Catalonia an extraordinary landscape variety.

This landscape wealth is an environmental, cultural, social and historical heritage that affects the standard of living of citizens and is also a resource economic development, particularly with tourist activities, but also for agriculture, cattle farming and forestry. On the other hand, the variety of the landscape mosaic contributes to the conservation of biodiversity and is a positive factor in the prevention of forest fires, soil erosion and floods.

Unfortunately, in past decades the landscape in Catalonia has been subject to processes of degradation and trivialization. The excessive and unplanned extension of urbanisation, the impact of certain infrastructures, the abandoning of agriculture, forestry and cattle farming, the degradation of some urban areas and the over exploitation of some locations have contributed to these processes, that endanger the environmental, cultural and historic values that these landscapes contain and increase the geological and other environmental risks.

Faced with this situation, the Parliament of Catalonia, by means of Resolution 364/VI, of December 14, 2000, unanimously agreed to join the European Agreement on landscape, approved by the council of Europe on October 20th, 2000. This Agreement calls on all member states that have implemented landscape policies, defined as "an essential element for individual and social wellbeing, the protection, management and planning of which entail rights and duties for everyone".

This law aims to give a positive content to this adhesion. Thus, it gives the landscapes in Catalonia necessary legal protection and establishes the corresponding instruments to manage and improve them.

II

This law is adapted to international terminology referring to landscape defined in the above-mentioned European Agreement, in accordance with which, landscape is understood as an area, seen by the society, the character of which is the result of interaction of natural and human factors; the objective of landscape quality, the formulation by the public authorities of the aspirations of society

for the landscape characteristics of their surroundings; for protection of landscape, actions destined to preserve and maintain the most outstanding features or characteristics of a landscape, justified by its patrimonial, environmental and economic values, as a result of natural action and human intervention. For managing landscape, actions focused on guiding and harmonising the transformations produced by the social, economic and environmental processes. And landscape planning, the actions that present a particularly strong prospective character focused on improving, restoring or creating landscapes.

Taking as a starting point the integrative conception of landscape derived from these definitions, this law establishes that its provisions are applicable to the entire territory of Catalonia: including natural, rural, forest, urban and peri-urban areas and singular landscape such as everyday or degraded landscape, either inland or on the coast.

This law ensures the protection of landscape and defines the instruments the Govern has to legally recognise values and promote actions for its conservation and improvement. Therefore, this law aims to make compatible economic and urban development with the quality of the environment, according to its the patrimonial, cultural and economic values.

This law does not intend to regulate all the elements that influence the production and transformation of the landscape in an all-comprehensive manner. Legislation by sectors must regulate the landscape impact of urban activities and the productive and extractive infrastructures, among others. The aim of this law is to be a reference for legislation and for the accomplishment of specific actions within the scope of landscape management, notwithstanding the existence of regulations, plans and programmes on environmental and agricultural issues and the sector legislation applicable to certain areas or protected categories.

III

This law is structured in five chapters. The first, titled "General Provisions", establishes the objective of the Law, its foundations, the definition of landscape, the scope of application, the landscape policies, the type of actions to be carried out on it and their objectives. The law establishes as an objective the integration of landscape into territorial and urban planning policies and other sector policies involved. In accordance with this objective, the scope of application of this law is the entire territory of Catalonia, both the areas where nature is predominant as well as those that have been transformed by human action. The application of this law does not exclude, however, the applicability of any other sector legislation on certain spaces or protection categories.

Chapter II, referring to landscape in territorial planning, establishes the instruments to be used for landscape protection, management and planning are established within the framework of this law. Thus, landscape catalogues will be created, as documents that determine the type of landscape in Catalonia and its current and potential values and which propose quality objectives. Also established are the landscape guidelines, by means of which the proposals of landscape quality objectives in territorial planning are incorporated.

Chapter III, dedicated to organization, refers to the Landscape Observatory, as an entity for support and collaboration with the Government of Catalonia in questions related to creation, application and management of landscape policies.

Chapter IV Refers to the creation and use of new instruments of agreement for strategies on landscape, such as the landscape maps. The Govern is also committed to promote social awareness about the landscape, teaching and the training of specialists in these matters.

Finally, Chapter V, dealing with the objectives of this law, refers to the creation of a Fund for protection, management and planning of landscape, as a financial instrument of the Government of Catalonia. The aim of the Fund is to finance specific actions for protection, management and planning of landscape implemented in accordance with the criteria established in this law and the regulations that derive from it.

The final provisions authorise the Govern to dictate the regulations to develop this law.

Chapter I

General provisions

Article 1

Object

This law aims to recognise the protection, management and planning of the landscape, with the aim of preserving its natural, patrimonial, cultural, social and economic values within the framework of sustainable development. With this objective, this law promotes the full integration of the landscape in planning and in territorial and urban planning policies, as well as in other sector policies that affect it directly or indirectly.

Article 2

Principles

The principles which should inspire the actions of public authorities in issues referring to landscape are:

- a) To promote the harmonic evolution of the landscape in accordance with concepts of rational use of the territory, sustainable urban development and the functionality of ecosystems.
- b) To preserve, adopting measures to protect the landscape, the right of citizens to live in a culturally significant environment.
- c) To recognise that the landscape is an element of individual and collective wellbeing, which as well as aesthetic and environmental values, also has an economic dimension.
- d) To consider the consequences on the landscape of any territorial planning and management action and to value the effects of building on the landscape.
- e) To favour cooperation between the different public administrations for the creation and implementation of landscape policies.
- f) To promote the collaboration of public and initiatives to encourage actions, adopt instruments and the taking of decisions on the landscape.

g) To promote the participation of social, professional and economic agents in landscape policies, especially professional colleges, universities, associations for the defence of nature and representatives of business and trade union organisations.

h) To encourage training on landscape issues.

Article 3

Definition of landscape

To the effects this law, landscape is understood as any part of territory, as seen by society, the character of which results from the action of natural or human factors and its interrelations.

Article 4

Scope of application

The provisions and measures established by this law are applicable to the entire territory of Catalonia, regardless of whether the landscape is the result of intense human action or of predominantly natural elements, notwithstanding the existence of regulations, plans and programmes on agricultural, forestry and cattle farming issues, as well as the rest of sector legislation applicable to certain areas or protected categories.

Article 5

Landscape policies

The public authorities, within their own scope of competences, must integrate, by means of the different plans and programmes and other actions, the consideration of the landscape in territorial, urban, agricultural, forestry policies, of cultural, social, economic, industrial and commercial infrastructures, and in general, any other sector policy with a direct or indirect effect on the landscape.

Article 6

Type of actions on the landscape

1. Public actions implemented on the landscape must be focused on protecting it, managing it and planning it.
2. Landscape protection actions are those focused on its preservation and the maintenance of significant characteristics of a landscape, justified by its value, arising either from natural configuration or human intervention.
3. Landscape management actions are actions focused on guiding and harmonizing the transformations produced by social, economic and environmental processes.
4. Landscape actions are those that have a particularly strong prospective character and their aim is to maintain, restore, improve, modify or regenerate landscapes.

Article 7

Cooperation in landscape policy

The Govern must promote, in accordance with the competent administrations in neighbouring territories the establishment of common landscape programmes in areas wherever this is convenient.

Article 8

Aim of actions on the landscape

Actions implemented on the landscape may have, among others, the following aims:

- a) Preservation of the landscape, which due to its natural or cultural features, needs specific and integrated interventions.
- b) Landscape improvement of the outskirts and access roads to cities and towns, and also the elimination, reduction and the transport of any elements, uses and activities that degrade it.
- c) Maintenance, improvement and restoration of agricultural and rural landscapes.
- d) The harmonic articulation of landscape, with special attention placed on the areas of contact between the urban and rural spaces and between land and sea.
- e) The creation of landscape integration projects of industrial and commercial areas and activities as well as their infrastructures.
- f) The encouragement of actions by local administration and private organisations in the promotion and protection of the landscape.
- g) The purchase of land to increase public patrimony of terrain in areas that are considered of interest for landscape management.
- h) The promotion of the value of the landscape as a tourist resource.

Chapter II

Landscape in territorial planning

Article 9

Instruments for landscape protection, management and planning

1. Landscape catalogues and landscape guidelines are to be created as instruments to protect, manage and plan the landscape.
2. The approval of the landscape catalogues is the responsibility of the Ministry of Town and Country Planning and Public Works, with the prior formalities of public information and consultation with any local economic and social organizations involved.

3. The Ministry of Town and Country Planning and Public Works is responsible for incorporating to the partial territorial plans and, if necessary, to the territorial guidelines, within their scope of action, the landscape guidelines that respond to the proposals of landscape quality objectives contained in the landscape catalogues.

4. Society, local entities and groups, entities as well as other departments in the Government of Catalonia and other administrations will participate in the procedures of landscape guidelines within the framework and with the resources established by regulations on processing of territorial planning and regulations on the legal framework of the public administrations and the common administrative procedures, especially with reference to compliance with public information procedures and consultation or reporting.

Article 10

Landscape catalogues

1. Landscape catalogues are documents with a descriptive and prospective character determining the types of landscape in Catalonia, identifying its values and its state of conservation and proposing the quality objectives they must comply with.

2. The territorial scope of the landscape catalogues corresponds to that of the application scope of each the partial territorial plans. In the neighbouring areas between two partial territorial plans, the coherence and continuity of landscape units must be upheld.

Article 11

Contents of landscape catalogues

Landscape catalogues will contain at least the following:

- a) An inventory of the landscape wealth present in its area.
- b) An enumeration of the activities and the processes that influence or will influence the current configuration of the landscape most significantly.
- c) The signposting of the principal routes and areas from which the landscape can be observed.
- d) A delimitation of the landscape units, understood as structurally, functionally or visually coherent areas on which it is possible to apply, partially or totally, a specific regime of protection, management or planning in the terms established in article 6.
- e) The definition of the objectives of landscape quality for each landscape unit. These objectives must express the aspirations of the society that make the landscape characteristics of their surroundings.
- f) A proposal of measures and actions necessary to achieve the landscape quality objectives.

Article 12

Landscape guidelines

1. Landscape guidelines are the determinations, based on landscape catalogues, which define and incorporate as the proposals of landscape quality objectives in the partial territorial plans or in the territorial directive plans.

2. Partial territorial plans and territorial directive plans determine the assumptions in which the guidelines are directly applied, the assumptions in which they are of compulsory incorporation whenever there is a modification or revision of urban planning and the assumptions in which the actions require a report made by a competent organism competent in landscape issues. Partial territorial plans and the territorial directive plans can also determine when landscape directives are recommended for urban planning by the landscape maps and for other plans or programmes derived from the sector policies that affect the landscape. In this latter case, the plans or programmes approved must be in accordance with the recommendations of the landscape directives.

Chapter III

The Landscape observatory

Article 13

The Landscape observatory

1. The Landscape Observatory is an entity offering support and collaboration to the Administration of the Government of Catalonia on all issues related to the creation, application and management of landscape policies.

2. The Landscape Observatory adopts the form of a legal entity, which better adapted to its functions; according to which in each case it has regulations applicable to the corresponding legal figure.

3. The composition of the Landscape Observatory must comprise a wide representation of the diverse agents that act on the territory and the landscape or are related to it. Concretely, representation must be given to the departments of the Government of Catalonia involved, as well as local and social organisations, professional and economic sectors.

4. The Landscape Observatory fulfils the functions it is attributed by this law and the functions related to supplying scientific and technical advice assigned by the provisions dictated to develop this law and the regulations emanating from the Observatory itself.

5. The Landscape Observatory may participate in European observatory networks on landscape and the initiatives and research and dissemination of knowledge and methodology projects adopted in the European Union.

6. The Landscape Observatory must draw up a report on the state of the landscape in Catalonia every four years. The Govern will present this report to the Parliament of Catalonia.

Chapter IV

Agreement and awareness in landscape policies

Article 14

Landscape Maps

1. Landscape maps are the instruments for agreement of strategies between public and private agents to accomplish the actions of protection, management and planning of the landscape aiming to maintain its values.
2. The Govern, local councillors, town councils and local administrations may promote the creation of landscape maps.
3. The contents of the landscape maps must take into account what is established in the landscape catalogues and is of influence on their area.
4. The contents of the landscape maps that have been made in the absence landscape catalogues must be taken into account in the landscape catalogues that are subsequently made.
5. The landscape maps must take into account the catalogues of cultural, artistic and natural heritage in the municipal area in the cases where they are approved.

Article 15

Measures for awareness, education and support

1. The Govern must promote the awareness of society, private organisations and public authorities about the landscape and its values, with relation to its cultural, social and economic importance, its evolution and the need to promote and strengthen its protection, management and planning.
2. The Govern must promote the awareness of the landscape in the programmes of the different education levels, particularly those destined to the training of specialists. It must also promote the exchange of experiences and offer support for research and projects and projects for the dissemination of knowledge on the landscape.
3. The Govern, within the scope of its competence and according to the resources available, must encourage activities of local administrations and the different public and private organisations that accomplish actions of promotion and protection of the landscape, especially those focused on the custody of the territory for the preservation of its landscape values, and must offer support for these activities.

Chapter V

Finance

Article 16

Funds for landscape protection, management and planning

A Fund will be created for landscape protection, management and planning, as a financial instrument of the Government of Catalonia using the funds for actions focused on landscape improvement that comply with the criteria established by this law and the regulations dictated to develop it.

Article 17

Aim of the Fund

The Fund for the protection, management and planning of landscape aims to promote the implementation of landscape actions with the aims established in article 8.

Article 18

Endowment of the Fund

1. The Fund for landscape protection, management and planning is funded by the contributions of the Govern by means of the Government of Catalonia budget and the contributions of other administrations, entities and companies.

2. The Govern's contribution to the Fund for landscape protection, management and planning of comes from the headings that the budget of the Government of Catalonia allocates annually to the Ministry of Town and Country Planning and Public Works.

Article 19

Participation in the Fund

The following may receive finance from the Fund for landscape protection, management and planning:

- a) Public entities, to implement actions destined to any of the aims established in article 8 and any other action focused on landscape protection, management and planning.
- b) Legally constituted private non-profit entities that include within their objectives to implement landscape actions.
- c) Private individuals or private legal entities, to implement actions which have as an objective any of the aims established in 8.

Article 20

Procedure

The regulations dictated to develop this law must establish the procedure of participation in the Fund for landscape protection, management and planning, the programmes to be financed and the percentages to be applied, the contents of the projects and other requirements to be implemented to access the funds.

Additional provision

Measures destined to the different educational levels

The Govern, in compliance with the provisions of article 15.2, must approve within a year the measures to promote the values of landscape respect, protection and reparation destined to the different educational levels.

Transitory provisions

One

Report of the competent organism in landscape issues in absence of landscape directives

The partial territorial plans and the territorial directive plans must establish, in absence of landscape directives, the cases in which the competent organism in landscape issues is to issue the report referred to in article 12.2.

Two

Processing and approval of the landscape directives incorporated into the approved plans

The landscape directives to be incorporated into the partial territorial plans or the already approved territorial directive plans to be processed and approved following the same procedure as that established for the modification of the plan they are to be incorporated into.

Final provisions

One

Deployment

The Govern is authorised to dictate the regulations necessary to develop and apply this law.

Two

Entry into force

This law will be enforced in a period of one month from the day it is published in the *Diari Oficial* of the Government of Catalonia.

Therefore, I order that all citizens involved in the application of this law cooperate with its compliance and that the tribunals and the authorities that deal with it to enforce it.

Palau de la Generalitat, June 8, 2005

Pasqual Maragall i Mira

President of the Government of Catalonia

Joaquim Nadal i Farreras

Minister of Town and Country Planning and Public Works

(05.159.143)