

**Government Decree 305/2011 (23 December)**  
**on the rules pertaining to design contests**

The Government, on the basis of the empowerment of Article 182(1) point 4 of the Act CVIII of 2011 on Public Procurement and acting within its competence according to Article 15(3) of the Fundamental Law of Hungary, lays down the following:

**CHAPTER I**

**SCOPE OF THE DECREE AND MANDATORY CASES OF CONDUCT OF DESIGN CONTEST**

**Article 1**

1. This Decree shall apply to design contests conducted by entities considered contracting authorities pursuant to the Act CVIII of 2011 on Public Procurement (hereinafter referred to as: the 'PPA'). The design contest is aimed at the selection of the designer – through the comparison and ranking of the building projects and the projects specified in other acts of legislation – which has the ability to carry out the given planning task, as well as the preliminary clarification of the professional criteria of the design task. The design contest may also consist of the professional preparation of tasks related to urban and country planning, landscape architecture, interior design.

**1a. The design contest may also be aimed at – in addition to the cases set out in paragraph 1 – the selection of the artist by comparing and ranking plans regarding fine arts, industrial arts or other arts in addition to the cases set out in paragraph 1 (pattern, installment, draft, small sculpture model) (hereinafter referred to as: art design contest). Rules set out in subtitle 13/A. shall be applied to art design contests.**

2. **This Decree may be applied voluntarily, if the estimated value – calculated as set out in Articles 11 and 15 of the PPA – of the design contest does not reach the EU thresholds established for design contests. Design contest may also be conducted by an organization or person not being considered as a contracting authority. All provisions of this decree shall be applied to a person or organization applying this decree voluntarily.**

3. The design contest shall be conducted before the building or other official licensing procedures in accordance with the subject-matter of the design contest, and it cannot aim at preparing the planning application documents, the contracting authority may only request a preliminary sketch.

**4. The conduct of a design contest is mandatory – unless otherwise provided in this Decree or in another act of legislation – for the competitive tendering of the architectural-technical planning of a building, if the contracting authority intends to procure a design service as set out in paragraph 1 subject to the PPA and the estimated value of this design service calculated as set out in the PPA equals or exceeds the EU threshold for services. The mandatory design contest may not be an idea contest defined in Article 2 (2). The procurement of the design service may take place after the design contest in a contract annual according to the provisions set out in Article 19.**

5. The conduct of a design contest is not mandatory in case of planning of special structures specified in Article 2 point 18 of the Act LXXVIII of 1997 on the Formation and Protection of Built Environment (hereinafter referred to as: the 'FPBE'), in case of a regional plan and a general zoning plan, and the planning of solely the renovation work of a building under protection of the national heritage.

6. The conduct of a design contest procedure is not mandatory, where the conditions set out in paragraph 4 do apply, but the contracting authority does not intend to organize competitive tendering of design plans, planning offers for the selection of the designer, and at the same time he undertakes to request a professional offer also in the course of the contract award procedure, to be conducted in accordance with the PPA, for the procurement of the design service, to apply the evaluation criterion of the most economically advantageous tender and to use sub-criteria suitable for the assessment of professional quality. Sub-criterion suitable for the assessment of professional quality may be any evaluation sub-criteria which is suitable for the assessment of the features of the envisaged building or the professional quality of the architectural-technical planning, however, in relation to the contents of the professional tender, the fact that the design contest is the type of procedure enabling the competitive tendering of design plans shall be taken into consideration.

7. Paragraph 4 shall not be applied to public works contracts, in which the task of the winning tenderer consists of the planning together with the execution of the building according to the rules set out in the Gov. Decree on the detailed rules pertaining to public works contracts.

8. The procedure pursuant to this Decree shall not be applied in cases set out in Article 9(1)-(4) of the PPA. In case of contracting authorities pursuant to Article 6(1)(a)-(f) of the PPA, the exceptions specified in Articles 116-118 of the PPA shall also be applied for the purposes of design contests, provided the design contest is aimed at the delivery of the performance of one or more activity (activities) pursuant to Article 114(2) of the PPA of the contracting authority.

9. Where the conduct of a design contest procedure is not mandatory, the contracting authority may decide whether it is necessary to conduct a design contest procedure prior to the contract award procedure for the procurement of the design service.

## **CHAPTER II**

### **GENERAL PROCEDURAL RULES**

#### **1. Types of design contests**

##### **Article 2**

1. The design contest may be aimed at the conclusion of a design service contract - after completion of the design contest procedure - with the first prize winner or with one of the prize winners to be invited to submit an offer according to the proposal of the jury.

2. A design contest may also be aimed at laying down the professional founding of the design conception of planning tasks, clarifying in advance the needs, preparing the design programme in cases where the design contest procedure is not aimed at the procurement of the design service (hereinafter referred to as: the 'idea contest').

3. If the contracting authority specified in the notice launching the design contest procedure that, after the completion of the design contest procedure, he would conclude a design service contract with the winner or one of the winners, the negotiated procedure without publication of a contract notice pursuant to the PPA shall be conducted for the procurement of the design service.

4. In case of idea contests, the contracting authority shall stipulate in the notice launching the procedure that no design service contract will be concluded with the winner afterwards. After the idea contest, the contracting authority may not conduct a negotiated procedure without publication of a contract notice.

5. The design contest procedure may be an open, restricted or a simple procedure.

6. Where the estimated value of the design contest established on the basis of Articles 11 and 15 of the PPA equals or exceeds HUF 25,000,000 (twenty-five million forints), only open or restricted procedure may be conducted by the contracting authority.

#### **2. Publication of design contests**

##### **Article 3**

1. The design contest shall be started with a design contest invitation, which shall be published by the contracting authority in a notice. The design contest invitation shall be drawn up according to the standard form specified in a separate act of legislation on the standard forms of public procurement contract notices and design contest notices. Sending and publication of the notices is subject to the provisions set out in the separate act of legislation.

2. If the estimated value of the design contest equals or exceeds the EU threshold applicable to design contests, the design contest invitation shall be published in the Official Journal of the European Union and the electronic daily of notices (the TED database – tenders electronic daily).

3. If the estimated value of the design contest does not reach the EU threshold, the invitation for an open or restricted design contest shall be published in the Public Procurement Bulletin.

4. The abridged design contest invitation containing essential information on the design contest as well as the documentation in part or in full shall be published in the official guidance and – where appropriate - on the website of the national professional chamber competent in the subject-matter of the design task, taking into consideration the provisions set out in the separate act of legislation on the publication of public procurement contract notices and design contest notices.

5. Contrary to the provisions set out in paragraphs 1-4, for the purposes of advertising of simple design contest procedures, Article 24 shall be applied.

6. The award criteria of the projects shall be established by the contracting authority in the design contest invitation.

#### **Article 4**

Article 2, Article 21(2)-(4), Article 22(1)-(2), Articles 34-35, Article 36(1), Article 37 and Article 57(2) of the PPA shall apply to design contests, noting that, for this purpose, public procurement shall mean design contest.

### **3. Confidentiality**

#### **Article 5**

1. In the course of design contests, confidentiality shall be ensured.

2. In order to ensure confidentiality

a) no code word, signature or any other designation violating confidentiality may be put on the package containing the project or on certain parts of the work, and neither may the project include anything that refers to the identity of the author or his workplace;

b) the candidates' name, address, seat and any other data requested in the invitation as well as digital data carriers shall be attached in a sealed envelope to the project;

c) data concerning the authors of the prize winner or purchased projects may only be learnt and publicised by the jury after completion of the evaluation and the final report;

d) data concerning the authors of projects which were not prize winners, were not purchased or given any cost refunding may not be learnt of, publicised by the jury without the authorisation of the candidate.

### **4. Participants in the design contest**

#### **Article 6**

1. Participants in the design contest are

- a) the contracting authority;
- b) the jury;
- c) the candidate.

2. All the persons and organizations participating in the design contest shall be bound to preserve the order, integrity of the design contest as well as its professionalism.

### **5. Contracting authority**

#### **Article 7**

1. The contracting authority is authorized to dispose of and take decisions on the given design task as well as the funds necessary for the conduct of the design contest procedure.

2. The task of the contracting authority shall be the following:
  - a) to determine the purpose and nature of design contest;
  - b) to ensure the necessary funds for the design contest;
  - c) to invite and charge the jury, ensure working conditions and remuneration;
  - d) to determine the design task;
  - e) to prepare the invitation or have the invitation prepared, approve and advertise it;
  - f) to conduct the design contest;
  - g) to announce the results of the design contest, pay the awarded prizes;
  - h) to use and exploit the projects pursuant to the provisions set out in this Decree and the rules pertaining to copyright law.
3. The contracting authority shall be responsible for the professionalism and lawfulness of the advertisement and conduct of the design contest.
4. The contracting authority shall provide identical information, without any discrimination, to the candidates concerning the design contest.

## **6. Jury**

### **Article 8**

1. Projects shall be evaluated by a jury, which is a body of natural persons having high level theoretical and practical knowledge concerning the subject-matter of the design contest.
2. The jury shall evaluate the projects submitted anonymously autonomously, in an unbiased and professional manner, on the grounds of the evaluation criteria.

### **Article 9**

1. The jury shall carry out its work according to an agreement concluded with the contracting authority, its mandate runs from being charged with the task to signing the final report. On the basis of a separate agreement, the jury may prepare the design contest invitation or its members may participate in the preparation of the design contest invitation.
2. Participants in a jury are the Chairman, the co-Chairman - where his participation is required by paragraph 7 - the Professional Secretary, the members of the jury, as well as any other persons involved as experts and, where appropriate, a legal expert. The Professional Secretary's responsibility consists of the preparation of the design contest invitation as well as the organization of the conduct of design contest.
3. In case of buildings forming the subject-matter of a priority issue in terms of national economy, the contracting authority shall conclude the agreement to perform the duties of Chairman of the jury with the person designated by the Minister responsible for the building matters, in concert with the competent professional chamber and, in case of listed buildings, in concert with the Minister responsible for the protection of cultural heritage.
4. The following entities may be members of the jury or may participate as expert: representatives proposed and requested by the national professional chambers, professional organisations and higher education institutions competent in the subject-matter of the design contest, the central administrative bodies concerned and the local government interested in the design task, as well as private individuals having high level theoretical and practical knowledge concerning the subject-matter of the design contest.

5. Professional representation of the national professional chamber competent in the subject-matter of the design contest (the Chamber of Hungarian Architects or the Chamber of Hungarian Engineers) and the local government interested in the design task shall be ensured in the jury in all cases.

6. A legal expert with legal qualifications shall participate in the jury, where the estimated value of the design contest reaches the EU threshold. His tasks cover the drawing up of the minutes taken during the design contest (the continuous minutes and the opening minutes pursuant to Article 17(6)) and other documents. If the estimated value of the design contest does not reach EU threshold, the task of the legal expert may also be carried out by the professional secretary, including taking minutes.

7. The Chairman of the jury shall convene and chair the meetings of the jury and oversee the evaluation process. Co-Chairman involvement in a jury is needed, if the Chairman does not have the qualifications set forth as a professional requirement for the candidates.

8. The Chairman, the co-Chairman - where his participation is required by paragraph 7 -, the Professional Secretary and the members are entitled to vote. The number of persons entitled to vote may be between 5 - 11 persons, except in case of the simple design contest.

9. If the contracting authority sets forth professional criteria to be met, qualifications to be held by the candidates in the design contest invitation, at least two-thirds of the members of the jury shall meet the professional criteria and have the qualifications required from the candidates, or equivalent. The representatives of the professional chambers and professional organisations shall have the design eligibility set forth for the candidates as well.

10. Prior to the advertisement of the design contest, all the members entitled to vote and the legal experts of the jury shall put their approving signature on the documentation. In the event that a member of the jury does not agree with the contents of the documentation, he may resign from the jury before the advertisement of the design contest. The contracting authority may request a new member, where appropriate.

11. If the Chairman be unable to attend, he shall be replaced by the co-Chairman, if a member be unable to attend, he shall be replaced, where appropriate, by the substitute member designated in the notice, during the full period of the evaluation process. The substitute member invited in the jury by the Chairman shall have the same rights and duties as that of the members. The designated members, experts and substitute members of the jury may not be replaced in the course of the procedure.

#### **Article 10**

1. The task of the jury shall be:

a) to identify the projects most fulfilling the design contest purpose specified in the design contest notice, applying a ranking beginning with the 1<sup>st</sup> prize, and to establish the purchase of the projects containing partial findings of high value,

b) to evaluate, rate the project in writing, with detailed justification, and prepare the final report,

c) to open the sealed envelopes attached to the projects that were prize winners or have been offered to be purchased in the design contest,

d) to prepare a recommendation for further design, indicating that it recommends the first prize winner or several prize winning candidates - specifying their identity - to be invited to submit a tender in the contract award procedure to be conducted after the design contest.

2. The professional decision of the jury concerning the evaluation, qualification, ranking of the projects, as well as the award of the design contest prizes is final, and the contracting authority may not depart therefrom.

#### **Article 11**

1. The jury shall adopt its decisions as a body, with simple majority vote, in the course of a meeting convened at the time and place determined by the Chairman of the jury. The presence of two-thirds of the members eligible to vote is required to ensure the quorum for the jury. In case of equal number of votes, the vote

of the Chairman or Co-Chairman having special qualifications - or equivalent - set forth as a professional requirement for the candidates shall decide. Any member of the jury is entitled to have his adverse or special opinion recorded in the continuous minutes during the evaluation work.

2. The work of the jury shall not be public. During the evaluation work, only support personnel drawing up the minutes may be present in addition to the persons specified in the design contest notice. The contracting authority shall be responsible for ensuring that confidentiality is preserved in the course of the evaluation process and the project may only be learnt of by the members and experts of the jury, before the final meeting of the jury.

## **7. Candidates**

### **Article 12**

1. A candidate is a legal or natural person or a legal entity without a legal personality which undertakes to prepare a design task advertised in a design contest notice or which has been requested to do so.

2. By submitting the project, the candidate accepts the conditions of the design contest notice as binding for himself.

3. Business organisations or natural entities which have committed a violation of law in the course of their professional activity, and this fact was established in a final judgement not more than five years before, may not apply as candidates.

## **8. Conflict of interest**

### **Article 13**

1. With regard to the participants in design contests, Article 24 of the PPA shall be applied with the differences set out in this Decree. The members of the jury are persons acting on behalf of the contracting authority pursuant to Article 24.

2. Members of the jury may not participate as designer, expert or consultant in the further design of the plans evaluated by them; furthermore, they may not undertake to prepare, on behalf of the contracting authority, a design with the same design programme and at the same place as that of the design contest evaluated by them, within three years as of the announcement of the results.

3. In addition to the provisions set out in Article 24(3) of the PPA, the following persons shall not apply as candidate:

(a) who is a relative of a participant in the jury, pursuant to Article 685 point (b) of the Act IV of 1959 on the Civil Code,

(b) who is in employment relationship or maintains any other legal relationship for work with the same business organisation as a jury member or has a share in an identical business organisation, or

(c) who has submitted a project jointly with a participant in the jury within one year.

4. Furthermore, in addition to the provisions set out in Article 24(3) of the PPA, the following entities shall not apply as candidate:

a) a business organisation, if its executive officer, a member of its supervisory board, or a member having a share in it, or their relative is a member of the jury, or

b) a business organisation, with which any designated member of the jury is in an employment relationship or in any other legal relationship for work.

## **9. Documentation of the design contest**

### **Article 14**

1. The documentation of the design contest notice (hereinafter referred to as: the 'documentation') shall consist of a detailed programme and the attachments forming a part thereof, as well as the description of essential data, information for the design contest.

2. The detailed programme of the documentation shall contain, in particular:

(a) the detailed description of the design task, data required for the design contest, the guidelines to be applied, with reference to the official regulations, norms and standards, where appropriate,

(b) the place and the way of access to materials which may be used to develop the design contest, and which are not issued but available for inspection,

(c) essential data to be taken into consideration during the development of the design contest, (settlement history, settlement structure, urban and country planning references, vegetation, regional and natural treasures, conditions of terrain, soil conditions, land use, protection of monuments and archaeological protection, safeguard for environmental protection, transportation, facilities of public institutions, and other data),

(d) a question sheet of data to be provided by the candidate in order to facilitate objective comparison,

(e) the way of indicating parts of the work which are subject to application for a patent,

(f) the specific professional criteria for evaluation of the projects in accordance with the subject-matter of the design contest, the requirements related to the building quality, professional care and professionalism of the architectural-technical design, in particular:

(fa) arrangement (fitting into the environment and landscape, built up area),

(fb) the purpose, usability and economies, taking into consideration the design programme,

(fc) the impact on the settlement landscape and settlement structure, as well as the requirements of overlook and view protection,

(fd) energy consciousness, wise exploitation of basic material, requirements of sustainable architecture;

(g) specifications concerning the form (e.g. graphic display, sheet size) and contents (e.g. ground plans, sections, facades, quantity of visual design, maximum number of sheets that may be submitted), distinguishing the recommended and the mandatory requirements,

(h) the designation, scale and formal requirements of the parts of work of the projects to be submitted,

(i) the way of returning projects which have not won any prize or been purchased,

(j) information concerning the place and date of announcing the results.

3. The attachments of the documentation shall contain in particular:

(a) the sketch, site plan of the planning site, including, where appropriate, geodetic data;

(b) maps, tests, design background and photographs required to understand the design task and prepare the project;

(c) address page;

(d) envelope;

(e) a form to be completed in order to give data concerning the candidates and the percentage of the prize or purchase broken down by authors.

4. The documentation shall also contain essential information concerning the design contest, in particular:

- (a) name of the contracting authority;
- (b) exact title, subject, purpose and nature of the design contest;
- (c) conditions of participating in the design contest (suitability criteria);
- (d) the place and cost of obtaining the full design contest documentation;
- (e) the place and way of and time limit for the submission of the projects;
- (f) the amount allocated for the award and purchase of the projects, and, from this amount, the highest amount of the prize and the lowest amount of the purchase;
- (g) data concerning refunding of costs paid to each candidate;
- (h) the name of the Chairman (Co-Chairman), the Professional Secretary, members (substitute members) and the experts of the jury as well as the organisation or workplace represented by them;
- (i) the way of and time limit for raising questions and providing answers concerning the design contest;
- (j) the name of the invited candidates in the case of restricted design contest procedures;
- (k) conditions, requirements and time limits set by the contracting authority, necessary for design service contracts;
- (l) the table of contents of the detailed programme of the design contest notice and of the attachments thereof;
- (m) reference to the acts of legislation pertaining to design contests;
- (n) the maximum number of sheets that may be submitted; it may only be more than 4 A1 design sheets and 4 pages (A4 sheets) of specification, if the jury justified it in the design contest notice;
- (o) whether any other language may be used in the design contest in addition to the Hungarian.

5. The project may only be requested in one copy.

6. The notice and the documentation of the design contest, the documents, minutes, final report drawn up in the procedure, as well as the text of the projects shall be prepared in Hungarian also in cases where the contracting authority allows using another language in the procedure. In case of any dispute, the Hungarian text shall govern.

7. The price of obtaining the documentation shall be set by the contracting authority; such price may not exceed the cost of preparing the documentation.

8. The name and address of the persons receiving the documentation of the design contest shall be included in a list.

9. The documentation shall be drawn up by the date of advertisement of the design contest.

## **10. Time limits for projects and submission of projects**

### **Article 15**

1. The time limit for submitting the projects shall be set in a way that allows sufficient time to prepare the projects, i.e. not less than 60 days as of the date of dispatch of the design contest notice in open procedures, not less than 50 days as of the sending of the invitation to submit projects to the suitable candidates in restricted procedures.



2. In simple procedures, the time limit for submission of projects shall be set in such a way as to allow not less than 40 days to draw up the project as of the receipt of the documentation.

3. In case of architectural-technical design contests necessary for the execution of public works contracts which are funded from central budgetary resources for the sake of a priority social purpose and have been declared priority matter in terms of national economy by a Government Decree, the time limit for preparing projects and raising questions may be shorter than the time limit pursuant to paragraphs 1-2 and 5, but only to such an extent that allows good quality.

4. Persons and organisations having obtained the documentation of the design contest may turn to the contracting authority with questions in relation to the design contest task in writing, within the time limit set in the documentation, without prejudice to confidentiality. Contact keeping in writing shall be in compliance with Article 35(2) of the PPA.

5. The time limit for submitting questions shall be set in such a way as to allow all candidates to receive the answers not less than 40 days in open procedures, not less than 35 days in restricted procedures and not less than 25 days in simple procedures before the expiry of time limit for submission of the projects.

6. The contracting authority shall send the answers to the questions to all the entities having purchased the documentation by the final date of giving the answers. The answers to the questions form part of the documentation, as of the same date.

7. The contracting authority may amend the contents of the detailed programme of the documentation - with the exception of the evaluation criteria and the suitability criteria -, supplement data or withdraw from conduct of the design contest up to the date of giving the answers to the questions.

8. In order to be able to answer the questions, the contracting authority may extend the time limit for submission of the projects. In open procedures, the new time limit for submission of the projects as well as the other time limits to be modified shall be published in a notice in a way identical to the advertisement of the procedure. The notice shall be dispatched not less than 40 days before the expiry of the original time limit and the persons receiving the design contest documentation shall also be directly informed. The candidates invited to submit a project shall be directly notified of the new time limit for submission of projects not less than 35 days in restricted procedures and not less than 25 days in open procedures before the expiry of the original time limit.

9. In restricted procedures, the contracting authority may extend the time limit for requests to participate on one occasion. The new time limit for requests to participate as well as the other time limits to be modified shall be published in a notice in a way identical to the advertisement of the procedure, before the expiry of the original time limit.

## **Article 16**

1. Projects may only be submitted by mail, using the address sheet attached to the documentation. The verified date of postal dispatch shall be considered as the date of submission.

2. Records shall be kept by the contracting authority of the receipt of the submitted projects. The record of receipt shall include data required for identification, the date of the postmark on the packaging, and the registry number of the certificate of posting.

3. Each project may only include one solution, except where the notice specifies different conditions pertaining thereto.

4. Each candidate may participate in a design contest with one project only.

5. In an attachment to the project, without prejudice to confidentiality, the candidate

(a) may prohibit in a statement the disclosing of his project which has not won any prize or been purchased, and

(b) shall make a statement, in compliance with the design contest notice, to the effect that he undertakes to prepare the design task pursuant to the requirements set out in Article 14(4)(k) and that he is entitled to do so according to the separate act of legislation.

## 11. Evaluation of projects

### Article 17

1. The evaluation criteria of the project may not depart from the requirements specified in the notice – in case of simple procedures, in the design contest notice sent directly - and the documentation and the answers given to the candidates' questions.
2. The jury shall exclude from the design contest:
  - (a) any project submitted after the expiry of the time limit, without opening such project;
  - (b) any project which does not meet the contents requirements specified in the documentation;
  - (c) any project violating confidentiality pursuant to Article 5(2)(a) and (b), and
  - (d) any project whose authors are subject to a ground for exclusion according to Article 12(3) and Article 13.
3. The jury may exclude from the evaluation any project not meeting formal requirements – provided the evaluation of the project is made impossible by the formal mistake – or any project that is incomplete.
4. The jury shall draw up continuous minutes and a final report – as a written summary – about the evaluation work, the conduct of the design contest, the evaluation, the ranking of projects and its decision on the prizes and purchases.
5. All essential events shall be registered concerning the evaluation work in the continuous minutes. The continuous minutes shall be signed by the participants in the jury.
6. Projects submitted within the time limit shall be opened in the presence of the jury and all parts of work of the projects shall be given an evaluation number. Minutes shall be taken of the opening (hereinafter referred to as: 'opening minutes') which shall include at least the evaluation number, postal identification, as well as the designation and number of units of parts of work in the projects. The opening minutes shall be attached to the continuous minutes.
7. The jury shall prepare a written summary concerning the design contest in a final report. The final report shall include:
  - (a) the exact title, subject-matter, purpose and nature of the design contest;
  - (b) a brief description of the conduct of the design contest, and the number and condition of the projects received;
  - (c) compliance with the specifications pursuant to the design contest notice;
  - (d) the evaluation criteria of the projects;
  - (e) a summary evaluation of the results of the design contest;
  - (f) detailed professional evaluations of each project;
  - (g) the ranking of the prize winning projects;
  - (h) the distribution of the prizes and purchases and a short justification thereof;
  - (i) recommendations for the way and possibilities of exploitation of the design contest;
  - (j) the reason for an unsuccessful design contest established by the jury;

**(k) recommendations for invitation to tender in the negotiated procedure without publication of a contract notice after the design contest, furthermore the fact if the jury recommends not to conduct a negotiated procedure without publication of a contract notice.**

8. In negotiated procedures without publication of a contract notice for ordering a design service pursuant to Article 94(5) of the PPA, in order to ensure price competition, the contracting authority may stipulate to the jury that more projects be awarded with prize and the jury shall be bound to recommend, according to paragraph 7(k), that at least the candidates ranked first and second - which were awarded a prize - be invited to submit a tender. If the second prize winning project is at a significantly lower professional level than the first prize winner, the jury may recommend that only the first prize winner candidate be invited to participate in the contract award procedure, contrary to the stipulation of the contracting authority, and the jury may recommend in such cases as well that no negotiated procedure without publication of a contract notice be conducted. Where more than one prize winner candidates are recommended by the jury to participate in the contract award procedure, the invitation to tender shall be sent to all the candidates recommended by the jury.

9. The jury may declare the design contest unsuccessful, if it does not consider any project worthy of prize or purchase. The jury shall state the reason for unsuccessfulness in the final report and make a proposal for the way of repeating and conducting the design contest.

10. The participants in the jury eligible to vote shall sign an original copy of the final report. The jury shall hand over the final report to the contracting authority and, pursuant to the contents of the same, the latter shall publish the notice on the results or the lack of success of the design contest.

11. The sealed envelope attached to the projects may only be opened after signing the continuous minutes and the documents recording the professional evaluation. The data of all persons (authors and staff) indicated on the data sheet shall be attached in a separate record to the final report.

12. If the existence of a ground for exclusion pursuant to Article 12(3) and Article 13 be revealed in relation to the candidates, the authors or staff after the adoption of the final report or the opening of the sealed envelope, the project concerned shall be subsequently excluded from the design contest. Such exclusion does not influence the ranking and prizes established before, the prize of the excluded candidate shall not be awarded and in case of exclusion of the candidate recommended to be invited to submit a tender, the candidate ranked behind the excluded candidate may be recommended by the jury to be invited to submit a tender in the negotiated procedure without publication of a contract notice to be conducted after the design contest.

## **12. Announcement and exploitation of the results of the design contest**

### **Article 18**

1. The results of the design contest shall be published by the contracting authority by the date set in the documentation. At the time of announcement of the results, but not later than within 8 working days after announcement of the results, the prizes and purchases established for the designers shall be paid.

2. A copy of the final report shall be handed over – upon a certificate of receipt - to the candidates being present at the announcement of the results and shall be sent not later than within thirty days after the announcement of the results to all that have not been present at the announcement of the results but have received the documentation, whether or not they have submitted a project, within thirty days from the advertisement.

3. The participants in the jury, the authors of the prize winner and purchased projects and, in case of a restricted design contest procedure, the short-listed candidates shall be invited to the announcement of the results.

4. The prize winner and purchased projects will be transferred into the contracting authority's ownership and it may use them in part or full without any further consideration, in compliance with the provisions concerning copyright.

5. The contracting authority shall return – upon certification – to the candidate, after contacting him, any projects which have not won any prize or been purchased. The contracting authority shall preserve projects which were not taken over for thirty days as of the date of the announcement of the results.

6. The results of the design contest shall be advertised according to the standard form and method determined in a separate act of legislation. The notice shall be sent not later than within ten working days after the announcement of the results. The design contest shall be closed with the publication of the notice concerning the results of the design contest procedure.

7. The notice specified in paragraph 6 shall not include any information the disclosure of which would affect adversely enforcement of law, would be against public interest, would jeopardise business interests of an economic operator or would distort competition among service providers.

#### **Article 19**

1. The ordering of a design service for further design following a design contest may only take place on the basis of a design contest declared effective by the jury, with the conditions for undertaking laid down in the documentation on the basis of the jury's recommendation and according to the rules pertaining to negotiated procedures without publication of a notice.

2. The amount of the prize or purchase of the projects shall not be included in the fee of any further design commission.

### **13. Funds for design contests and prizes**

#### **Article 20**

1. The necessary amount for the conduct of the design contest shall be transferred to the bank account of the contracting authority or organisation performing the preparatory and management tasks, before the advertisement of the design contest. No design contest may be advertised in the absence of the transfer of the necessary funds.

2. The amount of the funds for the design contest shall be determined in such a way as to ensure that the advertised prize be commensurate with the size, complexity and level of requirements of the design contest task and be in line with the established professional practice as well as take into consideration the recommendations of the competent professional chambers for rates and fees.

3. The costs necessary to produce the design contest notice (printing, photocopying, typing, advertisement, postal charges, cost of maps and photos and other costs) shall be deducted from the entire budget allocated for the design contest. The amount thus remaining may be divided for the prizes and purchasing of the design contests, the remuneration of the jury and the refund of costs to be paid to all candidates, where the contracting authority provided it in the notice.

4. The amount allocated for the prizes and purchase of the projects may only be reduced if the jury considers that the design contest delivers reduced value in terms of possible exploitation or one or more short-listed candidates have not submitted their project in the course of the restricted design contest procedure.

5. The members of the jury shall be given remuneration – commensurate with the work carried out by them – for their activity performed in the course of the preparation of the design contest and the evaluation work. The budget allocated for the remuneration of the jury shall not exceed 25% of the amount of the funds used for the design contest reduced by the costs listed in paragraph 3.

6. In the absence of an agreement otherwise, the Chairman – the co-Chairman where his participation is required by Article 9 paragraph 7 – of the jury is eligible for 140%, the professional secretary for 130% of the remuneration of a member of the jury, the legal expert for a remuneration equivalent to that of a member of the jury and an expert for 60 to 80% of the remuneration of a member of the jury.

### 13/A. General rules of art design contests

#### Article 20/A

1. The contracting authority shall stipulate the process of the conduct of art design contests as required in this subtitle, and shall publish the rules of the procedure on its website or – in case the contracting authority does not have an own website – the rules shall be published on the website of Public Procurement Authority.
2. The rules set out in Article 2 shall be applied to each type of design contest, noting that design service and design tasks shall mean art service.
3. Provisions set out in Article 3 except for Article 3 (4) shall be applied to the publication of art design contests. The contracting authority may not publish the contract notice for a design contest in any other way before publishing it as stipulated in detailed rules. Articles 4-5 and 13 shall also be applied to the conduct of art design contests.
4. Article 18 (6) and (7) shall be applied to the publication of the results of the art design contest.
5. The documentation of the design contest shall contain information to the candidates regarding the preparation and submission of the project. The documentation shall contain a detailed description of the task regarding the preparation of the project and the service prepared by the design contest.
6. The documentation shall contain information concerning the place, the way of and time limit of submission of projects the way of and time limit for raising questions and providing answers concerning the design contest; the conditions and requirements set by the contracting authority related to the service after the design contest; and the process of the design contest procedure defined by the contracting authority. In the art design contest the contracting authority may prescribe the participation of co-designers for additional planning tasks related to the art service.
7. In the documentation the contracting authority shall provide what exploitation rights on the prize winner or purchased projects it will obtain. The candidate – while ensuring confidentiality - shall make a statement attached to the project concerning the transfer of these exploitation rights. The contracting authority may also prescribe the transfer of proprietary rights of the price winner or purchased project. In case of art design contests purchase shall mean that the contracting authority shall pay an amount calculated by the jury regarding the value of the project, if it was prescribed by the contracting authority that it obtains certain exploitation – and optionally proprietary – rights on the awarded projects and furthermore on the projects containing valuable results as well. The design contest invitation shall contain the amount marked out for awarding and purchase of the projects, within the lowest and highest amount of purchase as well. While distributing the awards the contracting authority shall be aware of that the amount of awards contains the remuneration for exploitation rights as well.
8. The art design contest may be open, restricted, or – in case of applying this decree voluntarily regarding design contests not reaching HUF 25 million – simple design contest. Articles 21-25 – except for Article 24 (3) and 25 (3)-(4) – shall be applied to the conduct of the procedures. In case of restricted design contest procedures the prescribed number of candidates defined in Article 22 (2) shall be at least 3. For the certification of suitability the contracting authority may provide for other objective suitability criteria and way of certification than the suitability criteria set out in Article 23 (1). The time limit for submission of projects shall be set in such a way as to ensure reasonable time for the preparation of projects.

#### Article 20/B

1. The projects shall be awarded by a jury, the members of which shall be natural persons required to possess a competence – especially artists, or historians in arts – concerning the subject-matter of the design contest. The number of members of the jury shall be at least 3. In case a determined qualification or competence is required from the candidates, at least one third of the jury shall possess the same, equivalent or higher qualification or competence.
2. The jury shall make its decisions and determinate its opinions independently. Article 17 (4)-(5) shall be applied to the documentation of the evaluation process. The professional decision of the jury

concerning the evaluation, qualification, ranking of the projects, as well as the award of the design contest prizes is final, and the contracting authority may not depart therefrom.

3. The projects submitted by the candidates shall be evaluated by the jury anonymously solely on the basis of the award criteria set out in the notice launching the procedure. Anonymity shall be ensured until the jury takes its decision.

4. In the final report the jury shall establish the ranking of the projects. Article 17 (7) shall be applied to the content of the final report.

### **CHAPTER III**

#### **SPECIFIC RULES PERTAINING TO EACH TYPE OF PROCEDURE**

##### **2. Open design contest procedure**

###### **Article 21**

1. In case of open design contests all parties concerned may submit a project.

2. In case of open design contest procedures, in the design contest notice, the contracting authority may subject the participation in the design contest to professional requirements based on an act of legislation. In open procedures, no further certification may be required by the contracting authority concerning the suitability of candidates. Where non compliance with the set professional requirements occurs in relation to the candidates or the authors designated by them after the adoption of the final report or the opening of the sealed envelope, the project concerned shall be subsequently excluded from the design contest. Such exclusion does not influence the ranking and prizes established before, the prize of the excluded candidate shall not be awarded and in case of exclusion of the candidate recommended to be invited to submit a tender, the candidate ranked behind the excluded candidate may be recommended by the jury to be invited to submit a tender in the negotiated procedure without publication of a contract notice to be conducted after the design contest.

##### **3. Restricted design contest procedure**

###### **Article 22**

1. The restricted design contest procedure consists of two phases. In the first phase of the procedure, the contracting authority shall decide whether the candidate has the ability to perform the contract and shall select suitable candidates to be invited to submit a project. In the first phase of the procedure, no project may be requested by the contracting authority or submitted by the candidate.

2. In case of restricted design contest procedures, in the design contest notice, the contracting authority may state the prescribed number of candidates stipulating that not more than the highest limit number of such candidates shall be invited by him to submit a project. The prescribed number of candidates shall include at least five candidates. The prescribed number of candidates shall be adjusted to the volume, complexity and circumstances of the task and shall ensure genuine competition.

3. Where the contracting authority sets the prescribed number of candidates, the design contest notice shall state a ranking method in case the number of suitable candidates exceeds the upper limit of the prescribed number of candidates. Ranking can be determined in the scope of certification of suitability necessary for the performance of the contract.

4. In the event that the contracting authority does not determine the prescribed number of candidates, all the candidates qualified as suitable in the first phase shall be invited to submit a project.

5. If the contracting authority determines the prescribed number of candidates, the candidates selected based on a ranking provided in the design contest notice shall be requested to submit a project, among the candidates qualified as suitable in the first phase.

6. The contracting authority may directly request candidates – designated by him in the design contest notice – to participate in a restricted design contest. The designated candidates shall prove their suitability in the

same way as all other candidates do so. In addition to the entities designated by the contracting authority, all interested entities may request to participate in the procedure. The design contest notice shall refer to the opportunity offered to all interested parties – in addition to the designated entities – for submission of a request to participate.

7. Where all the provisions set out in paragraphs 2-6 are applied together by the contracting authority, he shall state a prescribed number of candidates exceeding the number of the designated candidates.

### **Article 23**

1. Documents required by the contracting authority for the certification of suitability may include the following:

- (a) description of previous professional activity related to the subject-matter of the design contest;
- (b) certification of eligibility to carry out design activity;
- (c) designation of possible co-designers, designers of special branches, subcontractors;
- (d) certification of existence of liability insurance of designers, way of provision of guarantee.

2. The documents to be submitted for the certification of suitability shall be indicated by the contracting authority in the design contest notice, and the contracting authority shall also state in which cases the candidate shall be considered suitable or unsuitable, on the basis of such documents.

3. The time limit for submission of the documents certifying suitability shall be set in such a way as to ensure reasonable time, but not less than 15 days for candidates to do so, as of the date of dispatch of the notice.

4. The suitability criteria may not be set by the contracting authority in such a way as to exclude certain candidates from the procedure or to result in their inappropriate, discriminatory or preferential treatment.

5. The outcome of the assessment of suitability shall be published. The documentation shall be forwarded to the invited entities by postal delivery or through direct delivery not later than within five days after the announcement of the results.

6. The suitable candidates – in case of establishment of a prescribed number of candidates, the candidates selected on the basis of the suitability criteria – shall be invited by the contracting authority to submit the project at the same time, directly, in writing, within the time limit set in paragraph 5.

## **4. Simple design contest procedure**

### **Article 24**

1. If the estimated value of the design contest is below HUF 25,000,000 (twenty-five million forints), the contracting authority shall conduct a simple design contest procedure, in case of which the general procedural rules shall be applied with the differences pursuant to this subtitle.

2. In simple design contest procedures, not less than three candidates shall be invited at the same time, directly, in writing by the contracting authority to submit a project. The contents of the notice shall be in compliance with the standard form for design contest notices specified by a separate act of legislation, and it shall also state, as further information, the final date of acceptance by the candidate. If the candidate does not express his intention to accept the invitation by the final date set in the notice, another candidate shall be invited in place of him. The contracting authority shall, if possible, send the invitation to candidates which he considers to be probably able to fulfil the suitability criteria to perform the contract.

3. The simple design contest notice shall be sent electronically by the contracting authority to the competent national professional chamber for publication on the chamber's website, 3 days before the sending of the notice to not less than three candidates. The notice shall be published by the chamber on its website not later than within 3 days after the receipt thereof. The document certifying the date of sending of the notice to the chamber shall be attached by the contracting authority to the documents of the procedure. After the publication

on the chamber's webpage, by the final date set in the notice for the acceptance of the invitation (not less than five working days as of the publication), those who, in addition to the invited candidates, intend to carry out the design task, may ask the contracting authority to make the documentation available for them. The candidate expressing his interest within the time limit, may ask questions, submit a project in the design contest procedure and shall have the same rights and duties as the requested (invited) candidates have in the procedure.

4. After the acceptance of the invitation – on the first working day following the final date set in the notice for the acceptance of the invitation – the contracting authority shall make the documentation available for the candidates accepting the invitation or the candidates requesting to participate on the basis of the invitation.

5. In the course of the simple design contest procedure, the number and the drawing up of the parts of work to be submitted, and in line therewith the prizes may be reduced in proportion to the task to be performed.

6. No person may be participant in the jury whose participation therein would constitute a ground for exclusion in relation to an invited candidate. 3 - 7 persons may have eligibility to vote in the jury.

## **5. Idea contest**

### **Article 25**

1. Following the idea contest, the contracting authority shall not be liable for giving a commission to the authors of the prize winning or purchased design contests and the candidate shall not be liable for undertaking contracting.

2. The idea contest shall be advertised and conducted in accordance with the general rules on design contests in an open or restricted form. The purpose of the idea contest shall be set out by the contracting authority in the notice and documentation.

3. Contrary to the provisions set out in Article 3(1) and (3), if the estimated value – pursuant to Article 15(a) of the PPA – of the idea contest is below the EU threshold applicable to design contests, the idea contest shall be advertised in the official journal of the competent professional chamber or on its website; in addition thereto, the contracting authority may arrange for the advertisement of the design contest otherwise.

4. In case of idea contests, the statement specified in Article 16(5)(b) shall not be attached to the project.

## **CHAPTER IV**

### **FINAL PROVISIONS**

#### **Article 26**

This Decree shall enter into force on 1 January 2012.

#### **Article 27**

The provisions of this Decree shall be applied to design contests announced after its entering into force.

#### **Article 27/A**

**Article 1 (1a), (2), and (4), as well as subtitle 13/A of this Decree, as determined by Gov. Decree 220/2012 (13 August) concerning the amendment of Gov. Decree 305/2011 (23 December) on the rules pertaining to design contests (hereinafter referred to as Amending Decree) shall be applied to design contest procedures initiated after the entering into force of the Amending Decree.**

#### **Article 28**

This Decree shall serve the purpose of compliance with Title IV of the Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, as well as Title III of the Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.



**Article 29**

The Gov. Decree 137/2004 (29 April) on the detailed rules pertaining to design contests shall be repealed.