

# PROVINCIAL LAW GAZETTE FOR VIENNA

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**Year 2021**

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**27th law:**                      **Law on Danube Floodplains National Park (Vienna National Park Act), law announcing the Vienna Nature Conservation Act, law governing fisheries within the limits of the City of Vienna (Vienna Fishing Act), law governing hunting (Vienna Hunting Act); amendment [CELEX nos.: 31992L0043, 32009L0147, 32013L0017, and 32019R1010]**

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**Law amending the law on Danube Floodplains National Park (Vienna National Park Act), the law announcing the Vienna Nature Conservation Act, the law governing fisheries within the limits of the City of Vienna (Vienna Fishing Act), and the law governing hunting (Vienna Hunting Act)**

The Vienna Provincial Assembly has resolved:

## **Article I**

The law on Danube Floodplains National Park (Vienna National Park Act), Provincial Law Gazette for Vienna No 37/1996, most recently amended by the law Provincial Law Gazette for Vienna No 36/2019, shall be amended as follows:

*1. In Article 2 para. 2, the wording in brackets “(Articles 9 to 15 Vienna Nature Conservation Act, Provincial Law Gazette for Vienna No 45/1998, as currently amended)” shall be replaced with:*

*“(Articles 9 to 15 and Articles 40a para. 4 and 5 and 53 para. 4 Vienna Nature Conservation Act, Provincial Law Gazette for Vienna No 45/1998 as currently amended)”*

*2. After Article 7 para. 6, the following paragraphs 7, 8, and 9 shall be appended:*

*“(7) Environmental organisations that are recognised pursuant to Article 19 para. 7 of the Environmental Impact Assessment Act 2000 (UVP-G 2000), Federal Law Gazette No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, and that have been granted party status in Vienna shall be entitled to participate in proceedings pursuant to para. 1 to 3 in accordance with para. 8.*

*(8) Notice of the proceedings specified in para. 1 to 3 shall be published without delay on an electronic platform that is accessible to these environmental organisations for a period of two weeks. During this period, environmental organisations pursuant to para. 7 shall be entitled to inspect the relevant records. Environmental organisations pursuant to para. 7 that submit a written participation notice to the nature conservation authorities within two weeks from the date of the publication of the notice on the electronic platform shall continue to be entitled to inspect the relevant records and shall also be entitled to submit opinions in the proceedings to determine the approval requirements pursuant to Article 7 para. 3. The opinions shall be taken into account appropriately in the decision. Official notices containing decisions shall be delivered without delay.*

*(9) Environmental organisations that have participated in proceedings pursuant to para. 8 shall also be entitled to lodge a complaint with the Vienna Administrative Court.”*

*3. The following paragraph 5 shall be appended after Article 22 para. 4:*

*“(5) Environmental organisations pursuant to Article 7 para. 7 shall have the right to lodge complaints with the Vienna Administrative Court against official notices pursuant to Article 7 para. 1 to 3 that were issued up to one year before this provision enters into force. Complaints against such official notices shall*

have no suspensive effect. The same shall apply to proceedings pursuant to Article 7 para. 1 to 3 that are pending but that have not yet been concluded at the time this provision enters into force. The official notices shall be published on an electronic platform that is accessible to these environmental organisations for a period of four weeks. The official notice shall be deemed delivered vis-à-vis these environmental organisations on the date of publication on the electronic platform. From this point, the environmental organisations shall have the right to inspect the administrative act. The right to lodge complaints shall not apply to official notices that have been subjected to a legally binding review by the Vienna Administrative Court and that are also not subject to pending proceedings based on an appeal to the Administrative Court or complaint to the Constitutional Court.”

## Article II

The law announcing the Vienna Nature Conservation Act, Provincial Law Gazette for Vienna No 45/1998, most recently amended by the law Provincial Law Gazette for Vienna No 71/2018, shall be amended as follows:

*1. In the table of contents, the wording “Article 40a. Participation by environmental organisations” shall be added in section 8 after the wording “Article 40. Nature conservation authorities”.*

*2. After Article 40, the following Article 40a shall be inserted:*

**“Article 40a.** (1) Environmental organisations that are recognised pursuant to Article 19 para. 7 of the Environmental Impact Assessment Act 2000 (UVP-G 2000), Federal Law Gazette No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, and that have been granted party status in Vienna shall be entitled to participate in proceedings pursuant Article 22 para. 5, 6, 7, and 8 (actions in European protection areas) in accordance with para. 2.

(2) Notice of the proceedings specified in para. 1 shall be published without delay on an electronic platform that is accessible to these environmental organisations for a period of two weeks. During this period, environmental organisations pursuant to para. 1 shall be entitled to inspect the relevant records. Environmental organisations pursuant to para. 1 that submit a written participation notice to the nature conservation authorities within two weeks from the date of the publication of the notice on the electronic platform shall continue to be entitled to inspect the relevant records and shall also be entitled to submit opinions in the proceedings to determine the approval requirements pursuant to Article 22 para. 5 to 9. The opinions shall be taken into account appropriately in the decision. Official notices containing decisions shall be delivered without delay.

(3) Environmental organisations that have participated in proceedings pursuant to para. 2 shall also be entitled to lodge a complaint with the Vienna Administrative Court.

(4) Environmental organisations that are recognised pursuant to Article 19 para. 7 of the Environmental Impact Assessment Act 2000 (UVP-G 2000), Federal Law Gazette No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, and that have been granted party status in Vienna shall be entitled to lodge a complaint with the Vienna Administrative Court against official notices pursuant to Article 11 para. 2, 3, 4, and 7 (exceptions from species protection prohibitions) provided that fauna or flora species that are protected by the Habitats Directive or Birds Directive are affected.

(5) The official notices specified in para. 4 shall be published without delay on an electronic platform that is accessible to these environmental organisations for a period of four weeks. The official notice shall be deemed delivered vis-à-vis these environmental organisations on the date of publication on the electronic platform. From this point, they shall have the right to inspect the administrative act.”

*3. The following paragraph 4 shall be appended after Article 53 para. 3:*

**“(4)** For official notices pursuant to Article 22 para. 5, 6, 7, and 8 (actions in European protection areas) and Article 11 para. 2, 3, 4, and 7 (exceptions from species protection prohibitions affecting fauna or flora species that are protected by the Habitats Directive or Birds Directive) that were issued no earlier than one year before this provision enters into force, Article 40a para. 5 shall apply accordingly. Complaints against such official notices shall have no suspensive effect. The same shall apply to proceedings pursuant to Article 22 para. 5, 6, 7, and 8 (actions in European protection areas) that are pending but that have not yet been concluded at the time this provision enters into force. This shall not apply to official notices that have been subjected to a legally binding review by the Vienna Administrative Court and that are also not subject to pending proceedings based on an appeal to the Administrative Court or complaint to the Constitutional Court.”

### Article III

The law governing fisheries within the limits of the City of Vienna (Vienna Fishing Act), Provincial Law Gazette for Vienna No 1/1948, most recently amended by the law Provincial Law Gazette for Vienna No 32/2019, shall be amended as follows:

*1. In Article 28 para. 5, the wording “of 50 per cent” shall be replaced with the wording “of 100 per cent”.*

*2. The following paragraphs 5 to 7 shall be appended after Article 61 para. 4:*

“(5) Environmental organisations that are recognised pursuant to Article 19 para. 7 of the Environmental Impact Assessment Act 2000 – UVP-G 2000, Federal Law Gazette No 697/1993, as amended in the federal law Federal Law Gazette I No 80/2018, and that have been granted party status in Vienna shall be entitled to lodge a complaint with the Vienna Administrative Court against official approvals pursuant to Article 47 para. 1 (exceptions from species protection prohibition) in relation to a species protected by the Habitats Directive (92/43/EEC).

(6) The official notices specified in para. 5 shall be published without delay on an electronic platform that is accessible to these environmental organisations for a period of four weeks. The official notice shall be deemed delivered vis-à-vis these environmental organisations on the date of publication on the electronic platform. From this point, the environmental organisations shall have the right to inspect the administrative act.

(7) The environmental organisations specified in para. 5 shall have the right to lodge complaints with the Vienna Administrative Court against official notices pursuant to para. 5 that were issued up to one year before this provision enters into force. Complaints against such official notices shall have no suspensive effect. The same shall apply to proceedings pursuant to Article 47 para. 1 pertaining to a species protected by the Habitats Directive (92/43/EEC) that are pending but that have not yet been concluded at the time this provision enters into force. The right to lodge complaints shall not apply to official notices that have been subjected to a legally binding review by the Vienna Administrative Court and that are also not subject to pending proceedings based on an appeal to the Administrative Court or complaint to the Constitutional Court. The provisions of para. 6 apply accordingly.”

### Article IV

The law governing hunting (Vienna Hunting Act), Provincial Law Gazette for Vienna No 6/1948, most recently amended by the law Provincial Law Gazette for Vienna No 43/2020, shall be amended as follows:

*1. The following paragraphs 4 to 6 shall be appended after Article 124 para. 3:*

“(4) Environmental organisations that are recognised pursuant to Article 19 para. 7 of the Environmental Impact Assessment Act 2000 – UVP-G 2000, Federal Law Gazette No 697/1993, most recently amended by the federal law Federal Law Gazette I No 80/2018, and that have been granted party status in Vienna shall be entitled to lodge a complaint with the Vienna Administrative Court against official approvals pursuant to Article 69 para. 2, Article 70 para. 3, Article 76 and Article 86 para. 5 (exceptions from species protection prohibitions) pertaining to a species protected by the Habitats Directive (92/43/EEC) or the Birds Directive (2009/147/EC).

(5) The official notices specified in para. 4 shall be published without delay on an electronic platform that is accessible to these environmental organisations for a period of four weeks. The official notice shall be deemed delivered vis-à-vis these environmental organisations on the date of publication on the electronic platform. From this point, the environmental organisations shall have the right to inspect the administrative act.

(6) The environmental organisations specified in para. 4 shall have the right to lodge complaints with the Vienna Administrative Court against official notices pursuant to para. 4 that were issued up to one year before this provision enters into force. Complaints against such official notices shall have no suspensive effect. The same shall apply to proceedings pursuant to Article 69 para. 2, Article 70 para. 3, Article 76, and Article 86 para. 5 pertaining to a species protected by the Habitats Directive (92/43/EEC) or the Birds Directive (2009/147/EC) that are pending but that have not yet been concluded at the time this provision enters into force. The right to lodge complaints shall not apply to official notices that have been subjected to a legally binding review by the Vienna Administrative Court and that are also not subject to pending proceedings based on an appeal to the Administrative Court or complaint to the Constitutional Court. The provisions of para. 5 apply accordingly.”

*2. Article 133b para. 1 shall read:*

“(1) When the Birds Directive is named in this law, this refers to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ No. L 20 of 26.01.2009 p. 7, most recently amended by Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019, OJ No. L 170 of 25.6.2019 p. 115.”

*3. Article 133b para. 2 shall read:*

“(2) When the Habitats Directive is named in this law, this refers to Directive 92/43/EEC of the Council of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ No. L 206 of 22.07.1992 p. 7, most recently amended by Directive 2013/17/EU of the Council of 13.05.2013, OJ No. L 158 of 10.06.2013 p. 193, as amended by correction OJ No. L 095 of 29.03.2014 p. 70.”

**Article V**

This law shall enter into force on the first day following announcement.

The Provincial Governor:

**Ludwig**

The Head of the Provincial Government Office:

**Hechtner**