

Article 1 Amendment of the Tyrol Nature Conservation Act 2005

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1. The following provision shall be added to Article 3 as para. 11:

“(11) Recognised environmental organisations are organisations with a geographical scope of recognition including the province of Tyrol pursuant to the Environmental Impact Assessment Act 2000.”

[...]

3. The previous para. 4 to 11 of Article 14 shall be replaced with the new para. 4 to 17:

“(4) Plans or projects that are not associated directly with or necessary for the management of the Natura 2000 area but that could have a significant detrimental impact such an area individually or in combination with other plans or projects shall require nature conservation permission (compatibility assessment) unless specified otherwise in para. 13 first sentence. The authorities shall determine by official notice within six weeks whether a compatibility assessment is required for a project upon written request by the applicant or planner. The authorities shall also be entitled to require a compatibility assessment under their own power. The applicant or planner shall provide to the authorities all documents required to identify the project and assess whether it may have a detrimental impact on the Natura 2000 area pursuant to the first sentence.

(5) In the compatibility assessment pursuant to para. 4 first sentence, the compatibility of the project with the preservation goals defined for the Natura 2000 area shall be evaluated. Without prejudice to any other official approval requirements or obligations to give notice under this law, an official order issued on the basis of this law, one of the laws listed in the Annex to Article 48 para. 1, or requirement for official approval pursuant to the Tyrolean Hohe Tauern National Park Act, Provincial Law Gazette No 103/1991 as currently amended, nature conservation permission shall be issued upon request by the applicant or entity responsible for the plan

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- a) if there is no significant detrimental impact on the Natura 2000 area or
- b) there is a significant detrimental impact on the Natura 2000 area but no other satisfactory solution for the project and the project
 - 1. is to be completed for compelling reasons of overriding public interest, including interests of a social or economic nature, or
 - 2. is to be completed despite a significant detrimental impact on a priority natural habitat type and/or a priority species due to compelling reasons of overriding public interest relating to public health, public safety, or material positive effects on the environment or, after receipt of a comment from the European Commission, is to be completed due to other compelling reasons of overriding public interest.

(6) Article 29 para. 5 to 13 applies accordingly to the compatibility assessment. Official approvals pursuant to para. 5 lit. b shall in any case specify the compensatory measures required to ensure the global coherence of Natura 2000. The authorities shall inform the European Commission of the implemented compensatory measures through the Provincial Government.

(7) The application for the performance of a compatibility assessment shall include the following documents:

- a) a nature impact declaration containing the following information:
 - 1. information about the type, location, and scope of the project including all required plans, sketches, and the like,
 - 2. a description and evaluation of the impacts of the project on the preservation goals specified for the Natura 2000 area or, if no such preservation goals have yet been defined, on the habitats, wild plants, animals, and birds contained in the standard data sheet and information about the method employed to evaluate the impacts,

- 3. for projects leading to significant detrimental impacts on the Natura 2000 area, a depiction of possible alternatives including the zero alternative and a proposal for compensatory measures;
- b) except for plans relating to Natura 2000 areas, proof of ownership of the affected pieces of land or, if the applicant is not the landowner, a declaration of consent from the landowner unless federal or provincial law allows expropriation or the granting of compulsory rights in favour of the project;
- c) proof of ownership of the affected pieces of land or, if the applicant is not the landowner, a declaration of consent from the landowner or other party entitled to make use of the land.

The nature impact declaration shall be submitted in three copies. If the project involves land in more than one municipality, an additional copy shall be included for each additional municipality.

- (8) If a project has a significant negative impact on the Natura 2000 area, the applicant shall
 - a) demonstrate compelling reasons of overriding public interest pursuant to para. 5 lit. b and submit the corresponding documents upon request, and
 - b) if the nature impact declaration contains no information pursuant to para. 7 lit. a number 3, submit this information upon request.

(9) The authorities shall forward one copy of the nature impact declaration to the municipality where the project is planned. The authorities and the affected municipality shall post this assessment for public inspection for a period of at least four weeks. Anyone shall be permitted to make copies of this assessment or to have copies or printouts made at their own cost. If the authorities maintain the records pertaining to the matter electronically, authorised persons can be permitted to inspect the records in any possible technical form upon request. If necessary, the authorities shall provide the municipality with sufficient copies or printouts of the nature impact declaration. During the public posting period, the project shall be announced on the website of the Province of Tyrol and on the official notice board of the competent authorities, of the affected municipality, and of the Natura 2000 municipalities. This announcement shall include the following in any case:

- a) the object of the application and a brief description of the project,

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- b) the fact that a compatibility assessment pursuant to para. 4 is to be conducted for the project, which authority is responsible for the decision, and the type of the possible decision,
- c) The place and time of the public posting of the nature impact declaration,
- d) the notice that recognised environmental organisations pursuant to para. 10 can participate in the nature impact assessment proceedings, and a reference to the provision in Article 43 para. 6 second sentence.

(10) Recognised environmental organisations pursuant to Article 3 para. 11 shall have the following rights provided that they requested party status or submitted an opinion during the period of announcement on the website of the Province of Tyrol pursuant to para. 9 sixth sentence:

- a) inspection of the administrative act,
- b) participation in the oral proceedings,
- c) submission of an opinion on the results of the taking of evidence,
- d) submission of opinions on compliance with the legal regulations that apply to the compatibility assessment,
- e) delivery of the official notice pursuant to para. 4 first sentence.

Opinions pursuant to lit. d must be submitted by the end of the oral proceedings, or, if no oral proceedings are held, within a period of two weeks after the official request for statements on the results of the taking of evidence.

(11) The authorities shall take submissions pursuant to para. 10 from recognised environmental organisations into account appropriately in their decision. The authorities shall post the official notice on the granting of nature conservation permission pursuant to para. 4 first sentence for public inspection for a period of at least four weeks. This posting shall be indicated on the website of the Province of Tyrol during the period for public inspection.

(12) For plans pursuant to para. 4 first sentence, supervisory approval pursuant to the Tyrol Regional Planning Act 2016 may not be granted until nature conservation permission pursuant to para. 4 first sentence has been granted. Article 71 para. 4 of the Tyrol Regional Planning Act 2016 shall not apply.

(13) Official orders from provincial authorities that qualify as plans pursuant to para. 4 first sentence shall only be issued if the authority has assessed the compatibility of the planned order with the preservation goals defined for this area and if the Natura 2000 area is not significantly impacted. Para. 5 and para. 6 second sentence shall apply accordingly.

(14) Alterations, forms of utilisation, and any other acts that could cause a deterioration of the natural habitats of the flora and fauna in the Natura 2000 areas are prohibited. The same shall apply to the disturbance of the flora and fauna that form the basis for the declaration of an area as a Natura 2000 area if this could have a significant effect on the objectives of the Habitats Directive. The district administrative authority shall prohibit such actions and disturbance by official notice. If such have already caused deterioration, the authority shall order the restoration of the previous state by way of the necessary measures by the party causing the damage at its own cost, or if this party cannot be determined through reasonable means, the landowner or other party authorised to make use of the land at its own cost; if the previous state cannot be restored or if this is only possible at disproportionate expense, the responsible party shall be ordered to change the state of the land at its own cost so that the interests of para. 1 are met to the greatest degree possible.

(15) In cases of imminent danger, the following can be effected by exercise of official authority

- a) the prevention of the continuation of the alterations, utilisation, or other acts pursuant to para. 14, and
- b) the imperative protective measures.

(16) Until the specification of the preservation goals pursuant to para. 3 lit. a, the provisions of this law that apply to Natura 2000 areas shall apply to the Natura 2000 areas falling under para. 2 and accordingly to those areas named to the European Commission by the Provincial Government for inclusion in the list of sites of Community importance, subject to the provision that the protection of the habitats and wild plants, animals, and birds contained in the standard data sheets shall take the place of the preservation goals and that no projects may be approved in sites named to the European Commission and not yet included in the list of sites of Community importance that could have a significant negative impact on the ecological characteristics of these sites, which shall especially be the case if an alteration significantly reduces the area of a site, leads to the extirpation of priority species present in this site, or results in the destruction of the site or the elimination of characteristics representative for its designation. The designation of the sites named to the European Commission shall be published in official Tyrolean gazette *Bote für Tirol* together with a plan showing the assignment of the parcels or parts thereof to the proposed sites. The standard data sheets shall be published on the website of the Provincial Government.

(17) The Provincial Government shall monitor and document the conservation status of the natural habitats and the wild fauna and flora. The priority natural habitats, the priority species, and the species listed in Annex I to the Birds Directive shall be a particular focus in this.”

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8. Article 43 shall read:

“Article 43

Proceedings

(1) Requests for nature conservation permission shall be submitted in writing.

(2) The application for nature conservation permission shall include the type, location, and scope of the project. Unless the application pertains to the use of motor vehicles on roads in protected areas, the application shall include proof of the ownership of the affected piece of land or, if the applicant is not the landowner, a declaration of consent from the landowner unless federal or provincial law allows expropriation or the granting of compulsory rights in favour of the project. The application shall also include two copies of all documents

- a) required to evaluate the permissibility of the project according to this law, according to official orders issued on the basis of this law, and according to the laws specified in the Annex to Article 48 para. 1, especially in terms of possible detrimental impacts on the landscape appearance, the recreational value of the landscape, and the ecology of the area such as plans, sketches, descriptions, flora and fauna surveys, and the like, and

b) that show how detrimental effects on the interests of nature conservation pursuant to Article 1 para. 1 can be avoided or reduced such as accompanying landscape preservation plans, vegetation planting schemes, nature conservation plans, and the like.

(3) If a project has detrimental effects on the interests of nature conservation pursuant to Article 1 para. 1, the applicant shall demonstrate the applicable public interests (Article 29 para. 1 lit. b) or long-term public interests (Article 29 para. 2 lit. c number 2) that override the interests of nature conservation and shall submit substantiating documents upon request.

(4) If filed for motor vehicles, an application for permission pursuant to Article 6 lit. j shall also include proof of ownership or other right of use for the vehicle. For vehicles without regulatory approval, documents shall also be included that show the type and equipment of the vehicle. Such an application shall also include the intended use and service area of the vehicle. The vehicle operator shall carry the decision granting nature conservation permission pursuant to 6 lit. j when operating the vehicle and shall present this decision to law enforcement officers upon demand.

(5) In all proceedings regarding decisions on applications for nature conservation permission, all municipalities affected by the undertaking shall have party status pursuant to Article 8 General Administrative Procedure Act (AVG) to represent their interests in their own spheres of competence.

(6) Recognised environmental organisations pursuant to Article 3 para. 11 shall have the right to file a complaint with the Provincial Administrative Court

a) against official notices on approvals pursuant to Article 14 para. 4 first sentence,

b) against official notices on findings pursuant to Article 14 para. 4 second sentence,

c) against official notices

1. granting exemptions from the prohibitions pursuant to Article 23 para. 2 and 3 lit. a or pursuant to Article 24 para. 2 and 3 lit. a regarding the flora and fauna listed in Annexes IV lit. b and V lit. b or in Annexes IV lit. a and V lit. a of the Habitats Directive, or

2. granting exemptions from the prohibitions pursuant to Article 25 para. 1 lit. a to e and g regarding the bird species protected by this law, and

d) against official notices granting approval pursuant to Articles 23 para. 7, 24 para. 7, and 25 para. 7.

If reasons are presented for the first time in a complaint pursuant to lit. a, these shall only be admissible if the recognised environmental organisation sufficiently demonstrates that it is not at fault or only bears a minor degree of fault in the failure to present these reasons during the period of announcement pursuant to Article 14 para. 9 sixth sentence or during the administrative proceedings.

(7) The authorities shall publish official notices pursuant to para. 6 lit. b, c., and d on the website of the Province of Tyrol for a period of at least four weeks. Two weeks after the date of this announcement, the official notice shall be deemed delivered vis-à-vis the recognised environmental organisations. They shall be permitted to inspect the administrative act starting on the day of announcement.

(8) An application for nature conservation permission shall be deemed withdrawn if another permit under federal or provincial law required for the project is rejected with legal effect or becomes ineffective. If an appeal is filed with the Administrative Court or a complaint filed with the Constitutional Court against the rejection of permission, this provision shall not take effect until the appeal or complaint is rejected, or if the permission is annulled until the permission is rejected again in the subsequent proceedings.

(9) The persons responsible for managing the respective protected area engaged directly by the Provincial Government or by other entities under civil law in which the Province of Tyrol holds a stake shall be notified of decisions on the granting or rejection of nature conservation permission for projects in protected areas (Articles 10, 11, 13, 21, and 22).

(10) After the expiry of a period of one year after the end of the periods specified in Article 29 para. 9 lit. d for the completion of the project, nature conservation permission shall also take legal effect vis-à-vis those entities with party status or the right to lodge complaints to whom the decision was not delivered or was not delivered completely unless they asserted their party status or right to lodge complaints up to that point in time.”

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12. The previous para. 12 of Article 48 shall be replaced with the following new para. 12, 13, and 14:

“(12) Recognised environmental organisations pursuant to Article 3 para. 11 shall have the right to file a complaint with the Provincial Administrative Court

- a) against the official approval of projects pursuant to Article 14 para. 4 of this law as amended in the law Provincial Law Gazette No 144/2018,
- b) against official notices
 - 1. granting exemptions from the prohibitions pursuant to Article 23 para. 2 and 3 lit. a or pursuant to Article 24 para. 2 and 3 lit. a regarding the flora and fauna listed in Annexes IV lit. b and V lit. b or in Annexes IV lit. a and V lit. a of the Habitats Directive, or
 - 2. granting exemptions from the prohibitions pursuant to Article 25 para. 1 lit. a to e and g regarding the bird species protected by this law, and
- c) against official notices granting approval pursuant to Articles 23 para. 7, 24 para. 7, and 25 para. 7

that took legal effect between 28 March 2018 and the date on which this law Provincial Law Gazette No 163/2019 entered into force or that had been issued but have not yet taken legal effect at the time that this law enters into force. The complaint shall be filed with the authorities within six weeks after the law Provincial Law Gazette No 163/2019 enters into force and shall have no suspensive effect. Recognised environmental organisations shall be permitted to inspect the administrative act from the time that the law Provincial Law Gazette No 163/2019 enters into force until the end of the period for appeal.

(13) Para. 12 shall not apply if

- a) an official notice pursuant to para. 12 lit. a, b, and c was delivered to the environmental organisation before the law Provincial Law Gazette No 163/2019 entered into force,
- b) the environmental organisation lost its party status pursuant to Article 42 para. 1 General Administrative Procedure Act (AVG) in proceedings conducted before the law Provincial Law Gazette No 163/2019 entered into force on the granting of exemptions from the prohibitions regarding protected species, or
- c) an environmental organisation has been granted party status in proceedings that have not yet been concluded at the point in time at which the law Provincial Law Gazette No 163/2019 enters into force; it shall retain its party status in this case.

(14) If provisions of other provincial laws make reference to the provisions of the Tyrolean Nature Conservation Act 1991, the corresponding provisions of this law shall take their place.”

Article 2

Amendment of the Tyrolean Hunting Act 2004

1. The following provision shall be added in Article 2 as para. 16:

“(16) Recognised environmental organisations are organisations with a geographical scope of recognition including the province of Tyrol pursuant to the Environmental Impact Assessment Act 2000.”

2. After Article 53, the following provision shall be inserted as Article 53a:

“Article 53a

Right of recognised environmental organisations to lodge complaints

(1) Recognised environmental organisations pursuant to Article 2 para. 16 shall have the right to file complaints with the Provincial Administrative Court against official notices on permits pursuant to Article 38a para. 4, official approval pursuant to Article 53 para. 1, and official orders and approvals pursuant to Article 53 para. 2.

(2) The authorities shall publish official notices pursuant to para. 1 on the website of the Province of Tyrol for a period of at least four weeks. Two weeks after the date of this announcement, the decision shall be deemed delivered vis-à-vis the recognised environmental organisations. They shall be permitted to inspect the administrative act starting on the day of announcement.”

[...]

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4. After Article 73, the following provision shall be inserted as Article 73a:

“Article 73a

Transitional provision

Recognised environmental organisations pursuant to Article 2 para. 16 shall have the right to file complaints with the Provincial Administrative Court against official notices pursuant to Article 53a para. 1 that took legal effect between 28 March 2018 and the date on which this law Provincial Law Gazette No 163/2019 entered into force or that had been issued but have not yet taken legal effect at the time that this law enters into force in the interests of the objectives pursuant to Article 1a. The complaint shall be filed with the authorities within six weeks after the law Provincial Law Gazette No 163/2019 enters into force and shall have no suspensive effect. Recognised environmental organisations shall be permitted to inspect the administrative act from the time that the law Provincial Law Gazette No 163/2019 enters into force until the end of the period for appeal.”

Article 3

Amendment of the Tyrolean Fishing Act 2002

1. The following provision shall be added in Article 2 as para. 11:

“(11) Recognised environmental organisations are organisations with a geographical scope of recognition including the province of Tyrol pursuant to the Environmental Impact Assessment Act 2000.”

2. The following provisions shall be added to Article 21 as para. 5 and 6:

“(5) Recognised environmental organisations pursuant to Article 2 para. 11 shall have the right to file complaints with the Provincial Administrative Court against official notices on approval pursuant to para. 3 first sentence.

(6) The authorities shall publish official notices on approval pursuant to para. 3 first sentence on the website of the Province of Tyrol for a period of at least four weeks. Two weeks after the date of this announcement, the decision shall be deemed delivered vis-à-vis the recognised environmental organisations. They shall be permitted to inspect the administrative act starting on the day of announcement.”

3. The following provision shall be added in Article 63 as para. 9:

“(9) Recognised environmental organisations pursuant to Article 2 para. 11 shall have the right to file complaints with the Provincial Administrative Court against official notices of approval pursuant to Article 21 para. 3 first sentence that took legal effect between 28 March 2018 and the date on which this law Provincial Law Gazette No 163/2019 entered into force or that had been issued but have not yet taken legal effect at the time that this law enters into force in the interests of the objectives pursuant to Article 1. The complaint shall be filed with the authorities within six weeks after the law Provincial Law Gazette No 163/2019 enters into force and shall have no suspensive effect. Recognised environmental organisations shall be permitted to inspect the administrative act from the time that the law Provincial Law Gazette No 163/2019 enters into force until the end of the period for appeal.”