

Preamble

Objectives and main content:

In essence, three topic areas are affected by the present amendment to the Vienna Event Act 2020:

- The protection of the environment from negative influences should be intensified at events. It is stipulated that the greatest possible environmental protection efforts must be considered at events. The waste concept for events is to be extended to include aspects of environmental protection, such as measures to incentivise the use of public transport and to reduce energy consumption.
- To protect visitors from harassment at certain events, preventive awareness measures are standardised. Awareness officers must be appointed. For events with a capacity of 5,000 visitors, awareness measures must be included in the security concept.
- The protection of larger, long-standing, and significant venues for Vienna should be enshrined in law to the extent that these venues can continue to operate even in the event of encroaching development, provided they comply with legal provisions in force to date and/or permits granted by official decision.

Furthermore, some additional minor changes were made, based on the experiences gathered when implementing the Wr. VG.

Impact of the Regulation:

Financial implications:

The amendment of the Vienna Event Act 2020 does not have any direct financial consequences for the City of Vienna.

The Austrian Federal Government and the other local authorities will not incur any additional costs as a result of the amendment to the Act in question.

– Implications for districts:

None.

Economic policy implications:

– Impact on employment and the status of Austria as a place for business:

None.

– Other economic policy implications:

None.

– Implications in terms of environmental, consumer protection and social policy:

Environmental protection measures at events will be strengthened.

Specific impacts on men and women:

None.

Relationship to EU legislation:

Directive (EU) 2015/1535 is affected by the standardisation of the avoidance of petrol and diesel-powered gensets and heat guns, by the use of ecological materials at events, and by the restriction of the use of games in amusement machines.

Special features of the legislative procedure:

Based on these technical regulations, the draft must be submitted to the European Commission for notification before the Viennese Parliament's decision.

Data protection impact assessment under the General Data Protection Regulation:

Not required.

Explanatory notes

I. General Part

Key considerations:

In essence, three topic areas are affected by the present amendment to the Vienna Event Act 2020:

- The protection of the environment from negative influences should be intensified at events. It is stipulated that the greatest possible environmental protection efforts must be considered at events. Care must be taken to use energy-efficient and environmentally friendly event technology and lighting and to keep energy consumption as low as possible. The exhaust gas-generating devices (e.g. gensets, heat guns) used mainly at outdoor events should be avoided and, if possible, devices that can be connected to the power grid should be used instead.
In the case of events that may be attended by more than 2,000 visitors in total, the waste concept already required should be supplemented with environmentally relevant aspects (e.g. measures for the use of public transport, reducing energy consumption, or the careful use of water, etc.).
- To protect visitors from harassment at certain events, preventive awareness measures are standardised. Awareness officers must be appointed. For events with a capacity of 5,000 visitors, awareness measures must be included in the security concept.
Venues must be made safer in this regard; For example, WC facilities in outdoor areas that are not permanently attended must be adequately illuminated from all sides in the absence of daylight.
- The protection of larger long-standing venues that are important for Vienna should be enshrined in law to the extent that these venues can continue to operate even in the event of encroaching development, provided they comply with legal provisions in force to date and/or permits granted by official decision.

Furthermore, some additional minor changes were made, based on the experiences gathered when implementing the Wr. VG.

In accordance with Article 15(1) of the B-VG, the State of Vienna is responsible for adopting the amendment to the Vienna Events Act 2020.

The changes do not result in any additional financial costs for the Austrian Federal Government or the State of Vienna.

The amendment is to be submitted to the European Commission in accordance with the provisions of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services before the decision is taken in the Viennese Parliament, as § 32(1) is intended to stipulate that the use of exhaust gas-producing devices (e.g. gensets, heat guns) is only permitted if connection to a power grid would lead to disproportionate technical effort or is economically unreasonable when measured against the environmental benefit. Furthermore, § 32(3) and (4) stipulate that environmental and waste-relevant measures, such as the use of ecological materials and environmentally friendly “give-aways”, as well as measures to prevent waste, must be taken at events with more than 2,000 visitors present. Finally, § 15(2) lays down restrictions on amusement apparatus.

II. Specific part

Re Article I, No 1 (table of contents):

The previous § 32 on waste and reusable products was generally extended to include the obligation to pay as much attention as possible to environmental protection when organising events and to submit an environmental concept for events in which a total of more than 2,000 visitors can participate. The heading has therefore been changed to “Environmentally friendly events”.

Article I, No 2 (§ 4(2) No 1):

As theatre performances in rooms and tents involve greater risks than open air theatrical performances, the express registration requirement for theatre performances with a capacity for more than 50 visitors is therefore restricted to events in rooms and tents. However, an obligation to register outdoor theatre performances (also under 300 visitors at the same time) is still possible in individual cases, e.g. in accordance with § 4(2) No 10.

Article I, No 3 (§ 4(2) No 3):

Since film screenings and similar projections in the outdoors or in tents have a higher potential to cause unreasonable nuisance to the environment through sound emissions than those held in rooms, these are expressly subject to registration. The exception, which is limited to television broadcasts in rooms, is therefore extended to film screenings in rooms insofar as these are no longer expressly subject to a registration. Furthermore, however, an obligation to register may arise, for example, from the provisions of § 4(2) No 10 (also for those with under 200 or 120 visitors at the same time).

Article I No 4 and 23 (§§ 5 No 1 and 23(8)):

There is no requirement to report music performances held outdoors or in tents to the authorities in the future if they have already been approved under event law.

Article I No 5 (§§ 6(2), 7(1), 10(5) and 14(2)):

The mention of Switzerland in the context of the EEA is justified by the Agreement on the Free Movement of Persons between Switzerland and the EU (AFMP) and its Member States.

Article I No 6, 9, 24, 33, 40, 41, 42, 44, 48:

References to other legal provisions have been updated.

Article I No 7 (§ 6(6)):

Since the acknowledgement of an organiser in the (simplified) registration procedure is issued by means of an official notification, a change of organiser must also be acknowledged by means of an official notification if the personal requirements are met.

Article I No 8 (§ 6(7)):

Since the legal succession of the entitlement as organiser in the case of reorganisations was not previously regulated by law, it is now defined in § 6(7).

Article I No 10 (§ 7(2)):

The wording is amended in that it is not the cumulative, rather the alternative lack of requirements should result in the prohibition as a managing director under event law.

Article I No 12 (§ 12):

Supervisors shall be expressly authorised by the organiser to accept official documents in future. In administrative practice, this makes it easier to deliver official documents during the event.

Concerning Article I No 13 and 14 (§ 15(1) and (2)):

The definition of an amusement machine is changed to the extent that the fulfilment of legal requirements, such as the specified maximum stake per game, is not necessary in order to qualify a machine as an amusement machine. The more detailed list of the legal requirements that govern such a machine can now be found in (2).

Due to inflation, the maximum permissible stake per game has been increased to 2 euros. In the interest of player and youth protection, the maximum permissible stake for amusement machines that offer a reward in the form of goods in the event of game success has been left unchanged, as these amusement machines have increased addictive potential. Experience has shown that young people and gambling addicts continue playing until they receive an item, such as a stuffed animal or comparable goods, as a “prize”. In most cases, however, their financial expenditure far exceeds the value of the prize.

Article I No 16 (§ 18(4)):

As lifts are subject to a notification procedure and not an authorisation procedure in accordance with the Vienna Lifts Act 2006 (WAZG 2006), § 18(4) has been adapted to this effect.

Concerning Article I No 17 and 18 (§ 18(7)):

The authority can now grant an exemption to the state of the art ex officio and not only after a reasoned request. In order to avoid circumvention, the conditions for the authorisation of an organisational measure are adjusted in such a way that a temporary but regular event renders such a measure inadmissible.

Article I No 19 (§ 20(4)):

In a growing city such as Vienna, new residential buildings are also being constructed near venues that have existed for a long time. This can lead to a reduction in the distance between the venues and the nearest dwellings of residents, which are to be used as an immission point for assessing the admissibility of the noise. For events held outdoors and in tents, the permissible noise levels are determined by the immission levels in § 23(3) and (4) Wr. VG, which are based on the noise protection guidelines for events issued by the Austrian Federal Environment Agency (<https://www.umweltbundesamt.at/fileadmin/site/publikationen/REP0310.pdf>). These immission levels must be maintained outside the windows of the nearest rooms used by residents, which is why a reduction in the distance from the emission source to the new buildings would cause the legally stipulated immission limit values to conflict with the immission values approved for the existing venue. Therefore, it was necessary to determine for these cases that, in the event of residential development, the events previously approved or permitted for such a venue should not be deemed unreasonable.

However, the scope of protection afforded by § 18(1) No 3 concerning unreasonable nuisances in the neighbourhood can only be restricted if another interest can be deemed to take precedence. Therefore, the public interests associated with larger, long-standing event venues, such as their great historical, cultural, economic, or tourist significance for Vienna were weighed against the interest in protecting the surrounding area from noise pollution. If, for example, a few open-air concerts are held in Vienna every year for several tens of thousands of visitors, to which internationally renowned artists are invited, then such an event has a positive impact on the entire city of Vienna, in addition to its cultural significance, on tourism and the economic situation of accommodation and catering establishments in Vienna, especially since a large number of external visitors travel to the city for these concerts. There are also some medium-sized venues that have been established for decades cater to certain segments of the population of Vienna and other Austrian states with a special cultural programme. When assessing these public interests and the interest of the surrounding area in protection against noise pollution, it was considered that the existence of such venues was known when new dwellings were later constructed, and therefore the decision to live in one of these buildings was made with the knowledge that events associated with noise immissions in the surrounding area would occur at a previously permitted frequency. In this direction, the noise protection guidelines for events issued by the Austrian Federal Environment Agency also argue that “the affected neighbour’s own attitude towards the event in question is a significant factor in their degree of disturbance.” “As a rule, the effects of events that are recognised as being of importance for the common good are perceived by those affected as less disturbing than noise from other sources” (Umweltbundesamt, Noise Protection Guidelines for Events, REP-0310, Vienna 2011, p. 10).

It therefore seems appropriate to allow such venues to hold events to the extent that was previously authorised or permitted by disregarding the newly erected buildings in the assessment of reasonableness, especially since a risk to health and life in accordance with § 18(1) No 2 Wr. VG must continue to be used as a protective interest in determining suitability also for such situations. The requirement that these are venues that have existed for 30 years or more arises from the consideration that the special significance of such venues becomes apparent when they endure beyond a generation and therefore have more than just a temporary significance. Due to the requirement for objectivity, there is also a need to define a certain minimum size for these venues. The figure of at least 1,000 visitors is based on the fact that the Vienna

Events Act 2020 assumes that the event is in a higher category when 1,000 visitors or more are present, as more extensive measures are necessary for hosting such an event than for smaller events (e.g. house or venue rules in accordance with § 27 or medical services in accordance with § 30(2)). Most of the larger established music venues have more than 1,000 seats (Vienna State Opera, Volksoper, Theater an der Wien, Ronacher, Raimund Theater, Arena Wien, Wiener Stadthalle, Konzerthaus, Musikverein, etc.).

The date of the notification of completion is decisive as the date for the construction of the dwellings added later (§ 128 BO for Vienna).

Concerning Article I No 20 (§ 23(3)):

The wording has been adapted to the noise protection guidelines for events issued by the Austrian Federal Environment Agency, Vienna 2011, in so far as the place of reference is not every room in buildings, but those of residents. Furthermore, this guideline allows the start of the night-time period to be moved from 10 p.m. to 11 p.m. during the legally regulated summer time, if a sufficiently long night's rest follows the event. The option has been limited to the extent that it is not permissible in areas with category 1 (quiet area, spa area, hospital) and 2 (residential areas in suburbs and rural residential areas with low traffic volumes, garden settlements, allotment settlements) usage, since in such areas the need for quiet is not based on summer time or, based on experience, the ambient noise is low.

Article I No 21 and 25 (§ 23(4) and § 24(3) No 4):

It is stipulated by law that, on the night from New Year's Eve until New Year's Day, the noise limit values of § 23(4) Table 2 apply until 2 a.m.. Similarly, the closing times on the night from New Year's Eve to New Year's Day are adjusted accordingly, as experience has shown that the population of Vienna tolerates noise pollution longer on New Year's Eve.

Article I No 22 (§ 23(6)):

In the future, soundproofing evidence must only be provided by the organiser if the authority so requires. Thus, in the cases referred to in (4) and (5), it is no longer obligatory for the organiser to submit soundproofing evidence in the procedure.

Article I No 26 (§ 24(4)):

The possibility has been created to extend this closing time at event venues with a generally approved closing time according to the Wr. VG.

Article I No 28, 31, 33 and 36 (§§ 26(5) and (6), 27(4) No 6, 28(7), 31(2) No 11 and 12):

Concerning § 26(5) and (6):

To protect visitors from harassment at events, an awareness concept must be developed by the organiser and awareness representatives must be appointed if the following event elements are cumulatively present: 1.) Musical performance, 2.) Dance floor or standing area in front of the stage, 3.) Serving alcohol, and 4.) End of the event after 9 p.m.. If these event elements are predominantly present at the overall event, then based on everyday experience it can be expected that the risk potential of harassment is increased, since both the visitors' inhibition threshold could be affected by alcohol, and the risk of harassment is increased by the naturally lower physical distance than, for example, in rows of seats. Due to the event elements selected, this regulation therefore applies mainly to concerts and discotheques. This does not apply to street festivals, for example, where various stations are offered for adults or children and one of the stations is a stage on which music is performed.

The awareness concept must at least define a rescue chain and its triggering. Visitors must be made aware of how the rescue chain is triggered in an appropriate manner. Examples would be to display the information at reasonably placed locations in the venue or to hand out flyers containing the information at the entrance (see details below on § 31(2) No 11 and 12).

The number of awareness officers to be appointed depends on the number of visitors who can attend an event at any one time and will be gradually increased. However, for events in which 5,000 visitors can participate simultaneously and for which a security concept must therefore be developed in accordance with § 31 Wr. VG the number of awareness officers must be specified in an awareness concept that forms part of the security concept. A proportionate standard must be applied here, whereby fewer than six awareness officers would in any case be disproportionate. Awareness officers may also fulfil other functions, provided that this does not hinder their work as awareness officers. At least every second authorised

person must be female. Awareness officers must be equipped with emergency communication devices that are ready to receive at all times.

Concerning § 27(4) No 6:

If awareness officers are appointed in accordance with § 26(5) and (6), the house and site regulations must include the availability of an awareness officer. Furthermore, the house and site regulations must include information for visitors on triggering an awareness rescue chain.

Re § 28(7):

To reduce the risk of harassment before or after the use of WC facilities in outdoor areas that are not permanently attended must be adequately illuminated from all sides in the absence of daylight. Adequate illumination means lighting that ensures clear visibility of the area surrounding around the WC facilities. An open flame or only selective lighting is therefore not sufficient. This obligation does not apply if the WC facilities are constantly supervised by a person during the event, as their presence provides increased security.

Concerning § 31(2) No 11 and 12:

For events in which 5,000 visitors or more can participate simultaneously and in which the event elements referred to in § 26(5) are cumulative and predominate with regard to the overall event, an awareness concept to prevent the harassment of visitors must be added to the security concept. The awareness concept must include the necessary amount of awareness officers and necessary awareness measures.

This includes the mandatory provision of a rescue chain. A rescue chain is a detailed sequence of actions, the beginning of which is triggered by a predetermined mechanism communicated to the visitors, such as the utterance of a code word. The individual measures of the rescue chain must interlock and aim to remove the harassed visitors from the harassment situation immediately. In any case, supervised safe spaces would also be a good awareness-raising measure for those affected. These can be, for example, specially equipped rooms or tents inside the venue.

The awareness concept should also include measures for adequately illuminating any areas that are difficult to see in the absence of daylight or making them inaccessible.

The authorities shall check the awareness concept for its completeness and conclusiveness during the procedure.

Concerning Article I No 29, 30 and 32 (§ 27):

In the future, the authority should be able to decide on a case-by-case basis for smaller venues, with a general suitability assessment for smaller venues, whether venue regulations are to be written. Furthermore, it was stipulated in (2) that the house or venue rules will be acknowledged by notice in the event of a change by means of an official notification.

Furthermore, the pre-existing authority of the Vienna Police Department monitoring bodies to expel persons from the venue in the event of certain violations was supplemented by the option of enforcing the expulsion by direct coercive force, if necessary.

Concerning Article I No 37 and 38 (§ 32):

The first and second sentences of § 32(1) stipulate that the aim is to minimise the impact on the environment as much as possible when staging events. Care must be taken to use energy-efficient and environmentally friendly event technology and lighting and to keep energy consumption as low as possible. This objective is (naturally) aimed primarily at the organisers and makes sense in terms of raising awareness with regard to environmental protection and future questions of interpretation.

The last sentence of § 32(1) stipulates that the use of exhaust gas-producing devices (e.g. gensets, heat guns) is only permitted if connection to a power grid would lead to disproportionate technical effort or is economically unreasonable when measured against the environmental benefit. The ban on exhaust gas-producing devices aims to reduce noise and odour nuisances to protect visitors, the environment, and the directly affected nature. Furthermore, the ban is intended to counteract soil contamination. The reduction of noise, odours and pollution therefore indirectly serves to protect the environment. As a side effect, but not as a priority, the ban will have a positive impact on air quality. National and provincial legislators may take into account in their regulations all public purposes and therefore also administrative purposes of the other respective regional authority (consideration authority; cf. VfSlg. 13.326).

§ 32(2) and (3) extend the waste management concept to include an environmental concept. The minimum content of the environmental aspects in the environmental and waste concept is listed in (3). No 1 concerns measures to create incentives for the use of public transport or bicycles to travel to the venue. One incentive for public transport would be, for example, that the event ticket is equally valid as a ticket for public transport. Another measure would be for the organiser to explain and recommend the possibility of travelling to and from the event by public transport as part of their communication with visitors (e.g. via the homepage, the ticket app, notices, etc.). In particular, if many visitors are expected to travel to Vienna from abroad, this information should also be offered in foreign languages. Another measure would be the provision of bicycle parking facilities near the venue.

§ 32(3) No 2 of the Wr. VG cites measures for reducing energy consumption as an additional mandatory component of the environmental and waste management concept. An example of this would be the selection of premises that require little energy for heating and/or cooling and can be ventilated in an energy-efficient manner, or the use of energy-efficient equipment. No 3 provides for the mandatory mention of measures for the careful use of water. An example would be the use of water-saving devices and sanitary facilities. § 32(3) No 4 lists measures for the use of ecological materials, such as ecological decorations, reusable temporary buildings and ecological cleaning agents. One measure could therefore be to choose durable, recyclable and ecological building materials and decorations. If the organiser provides “give-aways” to visitors, they must be environmentally friendly. No 6 refers to the protection of soil and vegetation at outdoor events. The measures to be taken to ensure that the soil and vegetation are not damaged by the event, e.g. by the discharge of chemical substances, or by the use of trees to support lighting equipment, must be stated. Finally, No 7 stipulates that the environmental and waste concept must also include measures to ensure that food and beverages are served in a resource-efficient manner. The avoidance of single-serving packaging is mentioned as an example here. Typically, these are offered when dispensing ketchup, mayonnaise, mustard, jam, or coffee cream, but can also be dispensed in an environmentally friendly manner without individual packaging. Avoiding coffee capsule systems and supplying tap water (Wiener Hochquellwasser) would be additional environmental protection measures.

Article I No 39 (§ 36(3)):

Since the restriction of the installation of a maximum of three amusement machines in public entertainment venues already does not apply under § 36(3), it is made clear that § 15(4) and (5) concerning the conditions for an exception to the restriction on the installation of amusement machines to no more than three units in public entertainment venues also do not apply (§ 15(4) and (5) apply only to venues other than public entertainment venues).

Article I, No 44 (§ 41(8)):

The future compliance with the requirements or measures necessary for the revocation of coercive and security measures can occur independently of the addressee of the coercive measure, since the organiser may have changed in the meantime, or the owner of the venue may be entitled to dispose of it.

Article I, No 46 (§ 43(1), No 6):

Since the waste concept has been expanded to include an environmental concept, the terminology has also been adapted in the criminal offence.

Article I No 47 (§ 43(2) No 9):

It is made clear that violations of conditions imposed by official notices under event law, which continue to apply under § 47(1), are also punishable by law.

Article I No 48 (§ 43(3) No 4):

The criminal offence concerning amusement machines under § 43(3) No 4 is extended to the extent that any violation of § 15 now falls under this criminal offence. However, this does not change the fact that violating the provisions of § 15(4) and (5) was already punishable under § 43(3) No 12 with the same penalty even before the present amendment.

Article I, No 50 (deletion of § 45, No 4):

Data from the financial criminal register are required to enforce the Wr. VG.

Article I No 51 (§ 47(10)):

For existing venues, a transitional period of one year is set for the expansion of the waste management concept to include the environmental concept.