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**Adoption of a Spatial
Planning Programme
for Part 1 of the Spatial
Energy Plan for the
Construction of Wind
Turbines and
Free-standing
Photovoltaic
Installations
(Upper Austrian Spatial
Energy Planning Regulation,
Part 1 – Exclusion Zones)**

Official Submission

Pursuant to Section 11 of the Upper Austrian Spatial Planning Act (*Oberösterreichisches Raumordnungsgesetz*, ROG) 1994, the spatial planning objectives and principles, as well as the tasks of supra-local spatial planning, are implemented by means of spatial planning programmes (regulations) adopted by the provincial government. These regulations must further define the intended objectives of spatial planning and the measures necessary to achieve them.

Accordingly, spatial planning programmes may be adopted for the entire province (provincial spatial planning programmes) or for parts of the province (regional spatial planning programmes), as well as for specific fields of spatial planning (subject-specific

spatial planning programmes).

1. Planning area:

Although not all municipalities in Upper Austria are affected by the substance of the exclusion zones for wind turbines and free-standing photovoltaic installations defined in this regulation, the entire territory of the province was included in all analyses and preparatory surveys.

2. Purpose and objectives of the spatial planning programme:

In the context of the mandatory implementation of the EU Renewable Energy Directive ('RED III', Directive 2009/28/EC), not only are so-called 'acceleration areas' defined, but permission to construct renewable-energy installations is generally granted an overriding public interest.

The objective of this spatial planning programme is to maintain the quality and quantity of the highly sensitive areas of Upper Austria in terms of nature conservation and landscape with regard to renewable energy installations, by excluding the construction of wind turbines and free-standing photovoltaic installations in these areas.



By taking into account both the interest in expanding renewable energies (acceleration areas) and the interest in preserving areas that are particularly sensitive to nature conservation ('exclusion zones' in accordance with this Regulation), it can be ensured that, on the one hand, Upper Austria can contribute to implementing the renewable-energy production targets defined for Austria and, on the other hand, Upper Austria's outstanding natural areas, which partly extend to far into Germany, Czechia, Lower Austria and Styria, continue to be maintained in their nature conservation-related quality.

The quantitative energy-related objectives of the current Energy Spatial Plan in Upper Austria are based, on the one hand, on the requirements of the Integrated Upper Austria Climate and Energy Strategy and, on the other hand, on the sectoral objectives of the Integrated Austrian Network Infrastructure Plan (ÖNIP, April 2024), which provides for the production of 3.8 TWh for photovoltaics and 1 TWh for wind power in 2030 in the 'current developments' scenario. It is noted that this Spatial Energy Plan can only ensure the basic framework for this achievement of the objectives, as the definitive implementation of the project depends on a large number of factors, such as regional acceptance, agreement from landowners, the eligibility of the projects and, last but not least, the framework conditions for the energy industry.

In order to ensure a comprehensive Spatial Energy Plan at an early stage and to publish it accordingly, the acceleration areas currently under examination by the provincial government are also shown in two separate annexes to this Regulation.

3. Established exclusion zones:

Landscape areas that are of paramount importance for species and habitat protection at provincial level – and must therefore be sustainably protected from the construction of wind turbines and free-standing photovoltaic installations – are defined as exclusion zones.

These landscape areas include:

- representative areas of large-scale landscapes and habitats in the central European context that are largely free from anthropogenic degradation; and/or
- habitats for strictly protected species under the EU Birds Directive and the Habitats Directive; and/or
- areas of particular importance for supra-regional habitat connectivity.

4. Strategic environmental assessment:

Since the adoption of this Spatial Planning Programme is to be subsumed under Section 2(2) (1) of the Environmental Assessment Regulation for Spatial Planning Programmes (*Umweltprüfungsverordnung für Raumordnungsprogramme*) (Provincial Law Gazette (*LGBl.*) No 111/2006), there is no need to carry out a strategic environmental assessment (SEA).

5. Financial impact on local authorities:

Neither the federal government, the provincial government or the municipalities are expected to incur significant additional costs as a result of this Regulation.

6. Consultation process, or process concerning the consultation mechanism:

92 municipalities were contacted during the consultation process, 25 of which subsequently submitted comments. Of the bodies and institutions otherwise required to be notified in accordance with Section 13(3) ROG 1994, submissions were received from the Upper Austrian Environmental Ombudsman, the Upper Austrian Chamber of Commerce, the Upper Austrian Chamber of Labour and the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK). 12 comments were submitted outside the scope of Article 13(3) ROG 1994, insofar as they relate to the exclusion zones or the plans therefor. These will also be taken into account below.

The critical submissions have been arranged thematically, and are subsequently dealt with in a legal or technical manner according to their content. We will not go into more detail about the positive comments here.

a. Legal part

- *Lack of grounds for an exclusion zone regulation with regard to the Renewable Energy Directive (RED III), or an exclusion zone regulation contradicts RED III; lack of proportionality*

Although the designation of exclusion zones is not expressly required by RED III, it is nevertheless in conformity with EU law, and both makes sense and is necessary from the perspectives of spatial energy planning and the balancing of interests. This approach to the creation of both exclusion zones (nature conservation, tourism, landscape protection) and acceleration zones (technical climate protection) is also followed and recommended in the study on the designation of acceleration areas published by the European Commission's Directorate-General for Energy in 2024. Therefore, no contradiction of RED III can be recognised.

Proportionality is a general principle of both national and EU law. It limits the exercise of powers in such a way as to strike a balance between the means employed and the objective intended. In the view of the Upper Austrian provincial government, the establishment of exclusion zones – in connection with the creation of acceleration zones – constitutes a balanced relationship.

In general, it should be noted that, in any event, an explicit reason under EU law is not absolutely necessary, since the adoption of spatial planning programmes is the core competence of supra-local spatial planning.

- *Need for a strategic environmental assessment*

Pursuant to Section 2(2)(1) of the Environmental Assessment Regulation for Spatial Planning Programmes, spatial planning programmes or regulations pursuant to Section 11(6) ROG 1994 whose planning-related content has no significant environmental impact when the planning is carried out, taking into account the test criteria pursuant to Section 13(2)(1) to (6) ROG 1994, are not expected to undergo an environmental assessment. No significant environmental impacts are to be expected if the planning objectives – and the planning measures based thereon – in a spatial planning programme have obviously positive effects on the environment and/or if projects that may produce give rise to significant effects on the environment are excluded.

Under the present Upper Austrian Spatial Energy Planning Regulation Part 1 – Exclusion Zones, naturally sensitive areas of Upper Austria are in any case excluded from projects that may have significant effects on the environment. The mere existence of this condition in Section 2(2)(1) of the Environmental Assessment Regulation for Spatial Planning Programmes is sufficient to justify the waiving of a strategic environmental assessment.

Furthermore, Part 1 (Exclusion Zones) of the Upper Austrian Spatial Energy Planning Regulation is part of a holistic spatial energy plan that takes into account both the interest in accelerating the expansion of renewable energies – in particular in fulfilling the province of Upper Austria's obligations under EU law – and the interest in preserving the nature conservation and landscape of areas that are especially sensitive.

This is done by defining exclusion zones and acceleration areas for the construction of wind turbines and free-standing photovoltaic installations. Of course, the acceleration areas to be defined will be subject to a strategic environmental assessment as part of a holistic assessment before they are established, whereby the legally protected good 'climate' will also be taken into account accordingly.

In any case, the determination of the borders of the exclusion zones does not jeopardise Upper Austria's expansion targets for wind power (1 TWh by 2030) as defined in the Network Infrastructure Plan (NIP) submitted by the BMK in 2024.

- *Financial impact and costs for local authorities*

A possible – and, by its very nature, merely speculative – future loss of profit is not part of the analysis of the financial impact within the scope of the consultation mechanism, which merely includes the financial relationship between the different local authorities.

- *The right of the municipalities to have a say – infringement of their sphere of competence*

Pursuant to Article 118(3)(9) of the Federal Constitutional Act (*Bundesverfassungsgerecht*, B-VG), a municipality's sphere of competence covers only matters relating to local spatial planning. To the contrary, the federal government and the provinces are responsible for the issues of supra-local spatial planning. According to the case-law of the Constitutional Court, a planning measure falls under local spatial planning only if it *'is in the exclusive or overriding interest of the local community located within the municipality and is capable of being taken care of by the community within its local borders.'*

In the light of this case-law, regulations on the construction of plants for producing energy from renewable sources for the entire territory of the province are not subject to local spatial planning. Therefore, there is no violation of the municipalities' sphere of influence.

Ultimately, any provision enacted under provincial law and by provincial regulation is always binding on the municipality in its own sphere of influence, but does therefore necessarily constitute unlawful interference with its sphere of influence. It is precisely the responsibility of the province to define the scope of the powers that are then exercised by the municipality in its own sphere of influence.

- *Discrimination against (sub-)regions located in the exclusion zone*

The approach to the creation of both exclusion zones (nature conservation, tourism, landscape protection) and acceleration zones (technical climate protection) is followed and recommended in the study on the designation of acceleration areas published by the European Commission's Directorate-General for Energy in 2024.

Neither the establishment of acceleration areas (or, consequently, the location of areas outside acceleration areas) when implementing RED III, nor the establishment of exclusion zones, constitute discrimination contrary to EU law or fundamental rights.

- *Four-week deadline for comments too short*

Section 13(3) ROG 1994 provides that a *'reasonable period of time'* be granted. Article 1(4)(1) of the Agreement between the federal government, the provinces and the municipalities on a consultation mechanism and a future stability pact for local authorities provides for a minimum period of four weeks for draft laws and regulations. In any event, in view of the brevity of this Regulation, such a deadline for submitting comments is sufficient. Furthermore, no longer deadlines have been granted for spatial planning programmes in the past.

- *Impact on EIA procedures outside the exclusion zone*

For areas outside the established exclusion zones, legal consequences thereof also do

not apply. This also applies to 'enclaves' that are entirely surrounded by exclusion zones.

- *Absence of a transitional provision*

To ensure the swift and effective enforcement of the Exclusion Zones Regulation in the best way possible, a transitional provision for ongoing proceedings was explicitly waived. Accordingly, the legal situation at the time of the decision shall apply. A large part of the areas now covered by Part 1 (Exclusion Zones) of the Upper Austrian Spatial Energy Planning Regulation were already part of the current Upper Austrian Wind Power Master Plan. Although this has not been a requirement, it has been the current state of science and technology since its existence.

Otherwise, any supra-local spatial planning would be impossible from the outset if the mere application for a project in the planning area might prevent this supra-local planning.

- *Lack of involvement of the social partners*

The procedural provisions of Section 13 ROG 1994 have been observed in full. All bodies and institutions subject to mandatory notification were involved and were given a sufficient opportunity to comment.

- *Insufficient determination; infringement of the requirement of objectivity*

The legal authorisation to establish spatial planning programmes is an authorisation to enact implementing regulations pursuant to Article 18(2) B-VG. Although a sufficient legal predetermination of the content of the regulation is necessary for the adoption of implementing regulations on spatial planning programmes, a 'final' predetermination of the content of the regulation by means of spatial planning objectives and spatial planning principles is sufficient for spatial plans (including in the case of supra-local spatial planning programmes), as the Constitutional Court has held in several judgments.

On the basis of the legal provisions of the ROG 1994, in the past few decades, numerous spatial planning programmes of varying content have been established, in particular including comprehensively positive and negative planning. The highest courts have not ruled any such determination to be inadequate.

In the context of the alleged lack of objectivity, it must be emphasised once again that Part 1 (Exclusion Zones) of the Upper Austrian Spatial Energy Planning Regulation must be considered in the sense of a comprehensive spatial energy plan. This approach to the creation of both exclusion zones (nature conservation, tourism, landscape protection) and acceleration zones (technical climate protection) is also followed and recommended in the study on the designation of acceleration areas published by the European Commission's Directorate-General for Energy in 2024.

- *Impact on Section 4a UVP-G 2000*

Part 1 (Exclusion Zones) of the Spatial Energy Planning Regulation, together with the acceleration zones to be established in the future, constitutes 'current supra-local wind energy spatial planning'. The ban on the construction of wind turbines and free-standing photovoltaic installations in the exclusion zones is of course a legal provision to be observed in the EIA procedure (regardless of the municipality's consent pursuant to the last sentence of Section 4a(3) of the Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz*, UVP-G) 2000.

b. Factual part

- *Enlargement of the exclusion zone for wind power in Schenkenfelden*

Unlike in the other exclusion zones, the special ornithological significance of the area in and around Schenkenfelden lies not in its quality as a habitat for protected species, but in its critical importance for bird migration. Since bird migration is a phenomenon that can be clearly delimited in time, it can be assumed that negative ornithological effects can be prevented by corresponding shut-down algorithms for the wind turbines relevant in connection with the bird migration.

These measures must be precisely defined in the course of a potential approval procedure and adapted to the on-site requirements. Therefore, no exclusion zone was established in this area. In any case, this is also due to the objective of enabling renewable energies to the extent necessary.

- *Enlargement of the exclusion zone for wind power in Königswiesen*

The planned wind farm near Königswiesen is located in an area with occurrences bird species that are sensitive to wind power. However, this area does not have the quality of a closed mountain-forest complex as in the high altitudes of the Freiwald and the Bohemian Forest, and is therefore not designated as an Important Bird Area (IBA).

- *Enlargement of the exclusion zone for wind power in Windhaag bei Freistadt*

The exclusion zones must be designated taking into account the objective of enabling renewable energies to the extent necessary. Even though the planned wind turbines in Windhaag near Freistadt are part of the North-East Mühlviertel region, which is worthy of protection, they are neither in the core area of the particularly important open forest area, nor in any protected area or IBA. In addition, there is no Natura 2000 bird sanctuary here on the Czech side, unlike in the Czech border area near Sandl. Furthermore, no ecological areas are impacted.

- *Enlargement of the exclusion zone for wind power in Grünbach and Rainbach*

The requested enlargement of the exclusion zone in the area of the municipalities of Rainbach and Grünbach to the south is justified by the fact that there is an important

wildlife corridor in this area, which is of particular significance for the connectivity of the forest areas of Bohemian Forest and Freiwald.

It should be noted that there are several locations of planned wind turbines in this area, which would be made impossible by any extension to the exclusion zone.

The planned sites lie just south of a forest complex that extends in an west-east direction and is of particular importance for the desired habitat connectivity. The area in question is located on the southern edge of the exclusion zone.

Overall, from a technical point of view, it seems reasonable to move the exclusion zone northwards to such an extent that the planned locations are not excluded in principle due to the peripheral location and the forest complexes to the north, which are suitable for ensuring the desired connectivity. In any case, this is also due to the objective of enabling renewable energies to the extent necessary.

- *Enlargement of the exclusion zone for wind power in the Bohemian Forest*

The highlands of the Bohemian Forest, which have closed mountain forests with significant populations of bird species sensitive to wind power (Article 1 of the Birds Directive), are located within the wind power exclusion zone. The south-eastern edges of the Bohemian Forest lie outside the exclusion zone, but they are also part of the Important Bird Area of the Bohemian Forest. This can be technically justified by the fact that these are lower-lying areas with significantly lower proportions of forest coverage, and correspondingly less significant occurrences of forest bird species sensitive to wind power.

- *Removal of the potential wind power site in the Saurüssel from exclusion zone*

On the one hand, the exclusion zone of the Alps and the Prealps is based on the natural beauty and unique character of the Alps and the low anthropogenic degradation of the wind-power-relevant ridge zones, hills and plateaus.

On the other hand, numerous wind-power-relevant bird species that are strictly protected under Article 1 of the Birds Directive have been detected in the Alpine and Prealpine areas, including numerous species listed in Annex I (e.g. golden eagle, peregrine falcon, black grouse, western capercaillie, black stork).

Large-scale protected areas, such as the Kalkalpen National Park, the Mond- und Attersee Natura 2000 site and the Dachstein European and Nature Conservation Area, underline the crucial importance of this landscape for nature conservation.

In addition, the Alps and Prealps perform essential habitat functions and serve as source and target areas for big game species in the European context. The large closed forest areas are of particular importance. For this reason, the Saurüssel area was also defined as an exclusion zone in the 2017 Wind Master Plan.

It is precisely the connectivity of the Alpine region with the Kobernaußerwald and the further corridors that justifies the exclusion zone in the Saurüssel area. As a so-called transition zone, the Saurüssel is an essential natural area for the functionality of cross-regional habitat connectivity.

For big game species with high space requirements, the forest area in the Saurüssel is not a permanent habitat, but as a stepping-stone habitat, it is of critical importance. To the north, wildlife corridors run towards the Kobernaußerwald, while to the south they

lead into the Alpine region, which is essential as a core zone for establishing and protecting viable populations of big game species. If, as in the case of the Saurüssel, the corridor connections are already functionally impaired, it is crucial that there be excellent nature conservation in the stepping-stone habitats. It is essential that these stepping-stone habitats be characterised by particular low disturbance in order to provide the animals with the necessary retreats during their natural migration.

Habitat connectivity is crucial for conserving, restoring and/or safeguarding biodiversity, as it enables genetic exchange between populations. In Upper Austria, there are only very limited possibilities for cross-regional habitat connectivity between the large landscapes of the Bohemian Massif and the Alps. The north-south axis running through the Kobernaußerwald is the one that best meets the requirement for natural space.

In addition to these technical comments, reference is made to the Protocol on the implementation of the Alpine Convention relating to nature protection and landscape conservation. It should be borne in mind that the Alpine Convention is an international treaty between Germany, France, Italy, Liechtenstein, Monaco, Austria, Switzerland, Slovenia and the European Union, which was signed in 1991 and has been in force since 1995. Austria was the first Contracting Party to ratify the Framework Convention in 1994.

Article 14 (Species conservation) of Chapter II (Specific measures), states the following: '(1) The Contracting Parties undertake to take appropriate measures to conserve native fauna and flora in their specific diversity with sufficient populations, in particular by ensuring sufficient habitats.'

- *Reduction of the Kobernaußerwald exclusion zone*

In addition to an exclusion zone, acceleration areas for wind power are designated in the Kobernaußerwald. The demarcation was carried out in such a way that the course of the eastern ridge of the Kobernaußerwald is still in the acceleration zone, while the area adjacent to the east is defined as an exclusion zone. The exclusion zone was slightly reduced along the ridge to ensure that the area potentially covered by the wind-turbine rotor, which is relevant for the designation, is also not in an exclusion zone.

- *Enabling wind turbines to be repowered*

As agreed in the present Upper Austrian Government Programme 2021-2027, the repowering of existing wind turbines is strived for. This should therefore also be possible in the defined exclusion zones. This concerns both existing plants in Spörbichl (two turbines, municipality of Windhaag) and Laussa (three turbines, municipality of Laussa). The text of the Regulation has therefore been adapted accordingly, so that corresponding repowering is now also possible in principle in the exclusion zones.

- *Requirement concerning the Sandl wind farm*

The Freiwald landscape area in Upper Austria, along with the Bohemian Forest, is the highest-quality natural landscape in the Mühlviertel and on the Green Belt. Its significance is further enhanced by the fact that the Freiwald and the Bohemian forest

are of paramount importance throughout the Bohemian Massif (Czechia, Bavarian, Mühlviertel and Waldviertel). The planned wind farm is located in a particularly important area for the supra-regional distribution of rare forest bird species: the area connects the Alpine regions of these species via the uplands of central Europe with northern and north-eastern Europe. The particular importance of this area for protected bird species continues into Czechia and is documented by the Novohradské hory Natura 2000 bird protection site.

Impact of the wind farm on wildlife: the area concerned is located in the centre of an Important Bird Area and in a significant area for the lynx.

As far as white-tailed eagles are concerned, it is highly likely that they will already be settled in the Rosenhofer Teiche area or in the forest area to the north towards the Czech border. An eyrie in this area would result in the majority of the wind turbines being located in an ornithologically justified avoidance zone / taboo zone.

The area concerned is populated, among others, by the Birds Directive Annex I species of hazel grouse, boreal owl and Eurasian pygmy owl, as well as by the Eurasian woodcock, a migratory species. These species are not only at risk from possible collisions with wind turbines, but also from habitat loss as a result avoidance behaviour. Hazel grouse are extremely sensitive to noise; owls hunt and locate small animals acoustically (i.e. are dependent on a quiet environment); and Eurasian woodcocks perform courtship displays above the forest canopy. Another problem is that rotating wind turbines at certain solar altitudes lead to an unnaturally rapid sequence of light-and-shadow effects within the forest. For birds, the planned height of the turbines results in them having a significantly greater negative spatial impact above the forest compared to turbines that have been standard up until now. Furthermore, the Eurasian woodcock (a protected species in the European protected areas that has, according to new evidence, recently become extinct as a result of wetland restoration) and, due to the currently positive development in the Bohemian Forest, the western capercaillie, are likely to be procedurally relevant species.

The currently submitted document (TB Raab GmbH) of 24 January 2025 concerning the impact of the Sandl wind farm on bird species in the project area and in the existing Natura 2000 sites, in particular in Czechia and Lower Austria, is not technically suitable for a serious assessment of the environmental impact of the project. Mapping has not been carried out to the extent required. The subject matter has been dealt with incompletely. A number of conclusions concerning several bird species are technically inadmissible. For example, the occurrence of white-tailed eagles is interpreted via animals telemetred in eastern Austria. Telemetred white-tailed eagles in the local breeding population in South Bohemia, Lower Austria and Upper Austria would yield a completely different result. With regard to Eurasian woodcocks, widespread settlement is to be assumed. A study (Baden-Württemberg case study 2006-2008; U. Dorka, F. Straub, J. Trautner) shows that the Eurasian woodcock has almost completely disappeared from the Black Forest following the construction of a wind farm. The displacement effects due to optical effects caused by light-shadow casting of rotors have not been taken into account, nor have the potential acoustic effects on highly sensitive forest-dwelling bird species such as the hazel grouse, boreal owl and Eurasian pygmy owl. References to sensitivities and victim counts of forest bird species in Germany are dubious, insofar as there is no reliable data on the effects on these

species due to the low number of wind farms in mountain forests and the complexity of corresponding examinations.

- *Protection of agricultural priority areas from the construction of photovoltaic installations*

Agricultural priority areas were not taken into account as an exclusion zone for photovoltaic installations, as the photovoltaic strategy and the list of criteria contained therein already exclude the construction of free-standing photovoltaic installations in the highest-quality soils.

- *Lack of justification for the photovoltaic exclusion zone at 1 200 m above sea level*

The altitude of 1 200 m was chosen on the basis of existing nature conservation regulations. In addition to the landscape aspects (i.e. the fact that these areas are predominantly peripheral locations of high to highest value in terms of landscape, which are not in any case to be welcomed from a technical point of view), the reasons for this altitude are above all also related to nature conservation. In general, because of the specific climate and soil conditions prevailing in there, highlands are particularly sensitive to human intervention. The figure of 1 200 m was transposed into the Upper Austrian Nature and Landscape Conservation Act (*Oberösterreichisches Natur- und Landschaftsschutzgesetz*) 2001 for prohibitions and authorisation reasons, as this only covers the Limestone Alps, whose karstic rock creates soil conditions that are particularly sensitive to intervention. Thus, irreversible damage can occur at this altitude due to the destruction of the turf, as natural revegetation no longer takes place in there. In any case, such interventions are to be expected as a result of the construction of photovoltaic installations, which is why the exclusion zone in the present definition appears justified from a nature conservation perspective.

c. Technical part of the energy management planning body

- *Prevention of the necessary expansion target for wind energy of 1.6 TWh, or general prevention of wind-turbine expansion in Upper Austria*

Pursuant to Section 94(1) of the Renewable Development Act (*Erneuerbaren-Ausbau-Gesetz*, EAG), the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK) is required to draw up an integrated network infrastructure plan (NIP). This NIP has the statutory mandate of including, in addition to the inventory of energy infrastructure and the breakdown of the contributions of renewable energy sources and technologies, the following measures: a structured assessment of future developments in energy infrastructure and energy demand, including the necessary measures in light of the further decarbonisation of the energy system and the seasonal flexibility and storage of electricity from renewable energy sources.

This NIP was submitted by the BMK in 2024. Table 13 in Chapter 3.2.2.1 (Potential for solar and wind power) shows the assumed wind-power generation from the 'current

developments' scenario per province (source: Environment Agency Austria, 2023). Upper Austria has an assumed production of 1 TWh in 2030 (Austria as a whole: 21.1 TWh).

This presentation in the NIP is consistent with the work carried out by the Austrian Energy Agency in 2023 (on behalf of the BMK), which – in order to achieve the so-called federal transition scenario for achieving climate neutrality in Austria by 2040 – also indicated a production of wind power in Upper Austria of 1 TWh in 2030.

Therefore, the energy considerations for the expansion of wind power in Upper Austria and the planning of acceleration areas are based on a possible expansion volume of about 1 TWh of wind power.

- *Creation of an efficient power grid in the north-eastern Mühlviertel only possible with substantial wind and solar projects*

Some of the municipalities concerned are located in the network area of Linz Netz GmbH. On 30 September 2024, Linz Netz GmbH published its Distribution Network Development Plan with a planning horizon up to 2034. Chapter 2.2.1 of this planning document enshrines the Upper Austrian Photovoltaic Strategy 2030 with a solar expansion rate of 3 500 GWh of production as the basis for planning.

The eastern Mühlviertel is currently supplied by three substations (Friensdorf, Freistadt and Baumgartenberg). The medium-voltage network towards the east is far-reaching with a large network length (some branches are up to 48 km long). In order to improve supply security and create new grid capacities, a 110 kV line is planned from Baumgartenberg to a newly constructed substation near Pierbach (project LN-2024-20 of the Distribution Network Development Plan; planned commissioning: 2033). The aim is to increase supply security and to create grid capacity in the eastern Mühlviertel, in particular for downstream networks (Ebner Strom GmbH).

In addition to this medium-term expansion perspective, Linz Netz GmbH's Distribution Network Development Plan contains a large number of measures specifically for the eastern Mühlviertel. In order to eliminate network bottlenecks, comprehensive network concepts and optimisations in network operation are included in the network expansion programme. Linz Netz GmbH's current plans show that the large number of constructed and planned decentralised generation plants of various technologies and power sizes have already generated an enormous investment and planning boost in the supply networks. This development will increasingly be reflected in the expansion of the electricity infrastructure.

7. Notification under Directive (EU) 2015/1535

The European Commission has been notified of this Regulation in accordance with 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.

Proposal

The Provincial Government of Upper Austria hereby resolves:

1. The comments in the Official Submission have acknowledged.
2. The **Regulation of the Provincial Government of Upper Austria Regulation on Part 1 of the Spatial Energy Plan for the construction of wind turbines and free-standing photovoltaic installations (Upper Austrian Spatial Energy Planning Regulation, Part 1 – Exclusion Zones)**, as can be seen in the enclosures, **is hereby adopted.**

Annexes:

Upper Austrian Spatial Energy Planning Regulation, Part 1 – Exclusion Zones, with annexes and statement of grounds

Remarks:

This document has been signed electronically by the authority. Information on checking the electronic seal and the printout can be found at <https://www.land-oberoesterreich.gv.at/amtssignatur>.

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