

June 24, 2025

Contribution on Notification 2025/0164/AT – Upper Austrian Spatial Energy Planning Ordinance Part 1: Exclusion zones

Dear Sir or Madam at the European Commission!

Together with SolarPower Europe, we – the Austrian Photovoltaic Association PV Austria – respectfully submit the following observations on the **notification 2025/0164/AT**, concerning the proposal by the federal state of Upper Austria to establish broad 'no-go areas' for ground-mounted PV installations and onshore wind energy projects.

With RED III, the EU has set an overall target for renewable energy of at least 42.5 % by 2030 at EU level. All Member States must contribute to achieving this target, e. g. by designating renewables acceleration areas (RAAs). The European Commission has therefore also published a clear guidance¹ in which it points out, that Member States 'should not create any new no-go areas' outside the designated RAAs.

Taking this into account, we would like to raise the following critical remarks concerning the above-mentioned notification:

Article 15b RED III:

By 21 May 2025, Member States are required to complete a coordinated mapping of all land, sea, and inland water areas necessary to meet their national renewable energy contributions toward the EU's binding renewable energy target. Prematurely excluding entire areas before this data-driven process is finalized directly contradicts the objectives of RED III and undermines the approach set out in Article 15b.

Article 15c RED III:

By 21 February 2026, Member States are required to designate, within the mapped areas, specific RAAs for one or more technologies, where deployment is not expected to have significant environmental impacts. However, the current draft fails to include any such positive RAA designations and instead introduces blanket exclusions, thereby undermining the strategic purpose of RAAs to accelerate permitting procedures and attract investment.

Article 16a RED III:

Within RAAs, RED III limits permitting procedures to a maximum of 6 resp. 12 months for ground-mounted PV projects, with simplified environmental requirements applicable once a Strategic Environmental Assessment (SEA) has been completed at the area level. In the absence of designated RAAs, there is no legal basis for these accelerated timelines, thereby undermining one of RED III's core objectives.

Directive 2001/42/EC:

Plans or programmes likely to have significant environmental effects – including zoning for energy infrastructure – must undergo a SEA prior to their adoption. The draft ordinance of Upper Austria contains no such SEA, thereby violating both the SEA Directive and the transparency provisions of RED III.

"It is unacceptable that clear obligations – such as the requirement to designate renewables acceleration areas – are deliberately disregarded, resulting in measures that directly contradict the objectives and instruments provided by the RED III framework. This approach not only undermines the credibility of the EU's renewable energy policy but also jeopardizes the achievement of the jointly agreed EU renewable energy target for 2030.", says Walburga Hemetsberger, CEO of SolarPower Europe.

¹ Directorate-General for Energy (2024). *Guidance on designating renewables acceleration areas (SWD)*.

“RED III is a practical toolbox filled with well-designed instruments to help achieve the EU’s renewable energy target. For Austria’s federal states, this should simply mean ‘take action and implement’. It is concerning that, after one and a half years, so little of this potential has actually been used and – in the case of Upper Austria – legally binding obligations are not only being interpreted at will, but effectively reversed through measures such as the exclusion zones ordinance.”, states Vera Immitzer, Managing Director of Photovoltaic Austria.

In light of the above, we respectfully request that the Commission:

- Initiate a detailed TRIS opinion under Directive 2015/1535 during the ongoing three-month standstill period, outlining how the draft conflicts with Articles 15b-c and 16a of RED III, as well as with the SEA Directive, and extend the standstill if necessary.
- Publish a technical opinion highlighting the absence of both a SEA and any positive RAA designations, as well as recommending concrete amendments.
- Closely monitor compliance with the standstill obligation and withhold any approval of the draft until the State of Upper Austria has implemented the required adjustments.
- Launch infringement proceedings under Article 258 TFEU if the draft remains unamended after the standstill and TRIS procedure, due to failure to properly transpose RED III.
- (Publicly) Clarify that the mere initiation or completion of a TRIS notification procedure does not in any way constitute legal validation or compatibility with other areas of EU law, including RED III. This distinction is crucial in preventing political misinterpretation or misrepresentation at national level, because we believe that Upper Austria is trying to validate its ordinance through TRIS, which is designed for entirely different regulatory contexts.

We kindly ask you to take the comments included in this statement into consideration. Should you have any questions, please do not hesitate to contact us at any time.

Yours faithfully,



Vera Immitzer
Managing Director Photovoltaic Austria



Walburga Hemetsberger
Chief Executive Officer SolarPower Europe