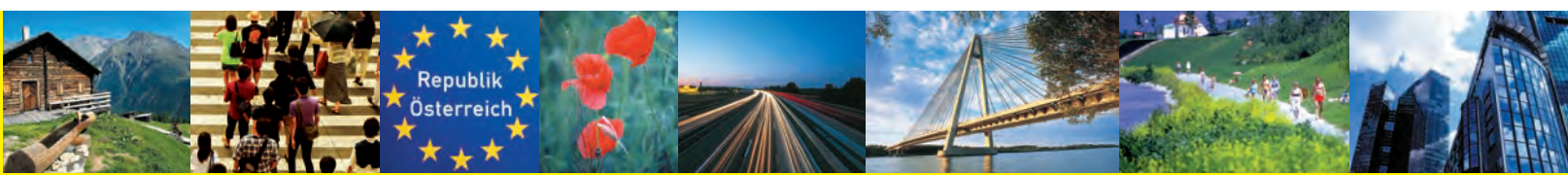


OEROK



Spatial Planning in Austria with References to Spatial Development and Regional Policy

AUSTRIAN CONFERENCE ON SPATIAL PLANNING (ÖROK)

PUBLICATION SERIES NO. 202

**SPATIAL PLANNING IN AUSTRIA
WITH REFERENCES TO SPATIAL DEVELOPMENT
AND REGIONAL POLICY**

Authors:

Markus Gruber

Arthur Kanonier

Simon Pohn-Weidinger

Arthur Schindelegger

Vienna, September 2018

PUBLICATION DETAILS

© 2018 Office of the Austrian Conference on Spatial Planning (ÖROK), Vienna
All rights retained.

Owned, produced, published and edited by: Office of the Austrian Conference on Spatial Planning (ÖROK)
Managing Directors: Johannes Roßbacher/Markus Seidl
Project coordination: Elisabeth Stix
Ballhausplatz 1, A-1014 Vienna
Phone: +43 (1) 535 34 44
Fax: +43 (1) 535 34 44 - 54
e-mail: oerok@oerok.gv.at
Website: www.oerok.gv.at

Authors:
Chapters 1, 4 to 9, Annex
Arthur Kanonier
Arthur Schindelegger
Technical University of Vienna, Fachbereich Bodenpolitik und Bodenmanagement

Chapters 2 & 3:
Markus Gruber
Simon Pohn-Weidinger
convelop (cooperative knowledge design gmbh)

Quotation suggestion - entire volume:
Gruber M., Kanonier A., Pohn-Weidinger S., Schindelegger A. (2018): Spatial Planning in Austria with References to Spatial Development and Regional Policy. Vienna: ÖROK. (= ÖROK publication series no. 202).

Quotation suggestion - chapters:
1, 4 to 9, Annex
Kanonier A., Schindelegger A. (2018): Chapter`s title. In ÖROK (publisher): Spatial Planning in Austria with References to Spatial Development and Regional Policy. Vienna: ÖROK. (= ÖROK publication series no. 202).
Chapters 2 & 3:
Gruber M., Pohn-Weidinger S. (2018): Chapter`s title. In ÖROK (publisher): Spatial Planning in Austria with References to Spatial Development and Regional Policy. Vienna: ÖROK. (= ÖROK publication series no. 202).

This publication is available in German with the title "Raumordnung in Österreich und Bezüge zur Raumentwicklung und Regionalpolitik". The English version is a translation of the German and the German is the authentic version. Translated by Edith Vangelhof.

Graphic Design: Katrin Pfleger, www.pflegergrafik.at, Vienna
Production: Astrid Widmann-Rinder, medien & mehr – Kommunikationsagentur, Vienna

Copyrights credits for cover photos:
Tirol Werbung, Gerhard Eisenschink/Fotolia.com/J. Roßbacher/H. Widmann/Amt der Niederösterreichischen Landesregierung/
Magistrat der Stadt Wien, Magistratsabteilung 18 – Stadtentwicklung und Stadtplanung

Printed: agensketterl, Vienna

Self-published

ISBN: 978-3-9504146-3-9

*Note:
The double-page spreads at the beginning of each chapter are illustrations and do not contain any planning data.
All photographs and graphic designs published have been researched carefully to the best of our knowledge and belief. Should we have overlooked an existing copyright when preparing the materials, please inform us of this without delay so that we can clarify the copyright situation as fast as possible.*

PREFACE

BY THE OFFICE OF THE AUSTRIAN CONFERENCE ON SPATIAL PLANNING

For readers of the ÖROK publication series, “Spatial Planning in Austria” is a well-known title. This publication, however, is a thoroughly revised and enlarged edition of the report published in 1998 (“Spatial Planning in Austria”, ÖROK 1998, ÖROK publication series no 137).

The role “Austria plays in Europe” was the incentive for producing the report at the time, as it is today as well. For the first version in the year 1998, Austria’s accession to the European Union with the necessity to “present the new member state of Austria and its position within the European constellation of member states” was the triggering moment (ÖROK 1998).

In 2018 – exactly twenty years later – the third Austrian Presidency of the Council of the European Union (Austrian EU Council Presidency) is a good occasion to update and supplement the publication.

For Austria, the current EU Presidency (1 July to 31 December 2018) also means a continuation of the common European agenda for spatial and urban development and also an opportunity to participate in defining the different working formats at the EU level and between member states. This publication “Spatial Planning in Austria with References to Spatial Development and Regional Policy” presents Austria’s position and was drafted to serve as a basis for a lively exchange of views among the actors – regardless of whether they work at administrative bodies or are experts and academics.

The aim of the publication series is not just to enlighten “outsiders”, but to provide an updated, enlarged and systematic presentation also for “insiders”, i.e., for Austrian actors as a means of support for processes and the transfer of knowledge. At ÖROK, spatial development is currently topical and the Austrian Spatial Development Concept (ÖREK) with a view to the year 2021 was due for an update anyway. With respect to regional policy and regional development, the programmes of the EU call for the preparation of new basic documents also by the year 2021 (multi-annual financial framework 2021-2027, programming period 2021 to 2027). This publication is a valuable contribution in both of these fields. Furthermore, there are various spatial processes and activities under way at ÖROK members for which this presentation may be very useful.

This report also follows the basic structure of the previous one and presents an updated outlook, with certain areas being given a much wider scope; the title also reflects this approach: “Spatial Planning in Austria with References to Spatial Development and Regional Policy”. The report opens with an introduction by the authors Arthur Kanonier and Arthur Schindelegger (Technical University of Vienna) on “Spatial Conditions and Development Trends” followed by chapters on the “European Dimension of Spatial Development” and “Regional Policy”. These topics were prepared by Markus Gruber and Simon Pohn-Weidinger (convelop). Compared to the publication of 1998, these two chapters give a supplemented, enlarged and differentiated description and interpretation of the development phases of regional policy and regional development (with respect to EU and Austria).

The presentation of regional policy and regional development is followed by a discussion of the spatial planning system in Austria: It addresses the concepts and objectives, the distribution of areas of competence and the planning levels, the development phases of spatial planning law, the planning instruments, the procedures and processes as well as the challenges. The authors, Arthur Kanonier and Arthur Schindelegger,

also took guidance from the first publication to update, supplement and enlarge the topics by several areas (among others, the development phases of spatial planning law, planning procedures and planning processes).

From the standpoint of the Austrian Conference on Spatial Planning, it is important to present the Austrian system of spatial planning, regional policy, spatial development in a joint publication – in its entire diversity and sometimes divergent development paths – and to make this basic information available to all interested parties.

In our role as the Austrian Conference on Spatial Planning, we are especially pleased to present a comprehensive overview of the overall system of nominal and functional spatial planning in Austria to our readers at home and also outside our borders. Our special thanks go to the team of authors and to all of the experts involved in the production of this publication, which was accomplished within a very challenging timeframe.


Mag. Johannes Roßbacher

Managing Directors



Mag. Markus Seidl

TABLE OF CONTENTS

	PREFACE BY THE OFFICE OF THE AUSTRIAN CONFERENCE ON SPATIAL PLANNING (ÖROK)	5
	SUMMARY	10
	ZUSAMMENFASSUNG	14
1	SPATIAL CONDITIONS AND DEVELOPMENT TRENDS	18
1.1	Austria in Europe	20
1.2	Population and Settlement Trends	22
1.3	Economic Development and Labour Market	23
1.4	Transport and Mobility	24
1.5	Landscape and Natural Resources	25
2	THE EUROPEAN DIMENSION OF SPATIAL DEVELOPMENT	28
2.1	European Framework Strategies and their Significance for Spatial Development	30
2.2	EU Cohesion Policy and its Spatial Dimension	31
2.3	Rural Development Policy	32
2.4	Role of European Instruments for Austria's Regional Policy	32
2.5	The Wider Perspective under EU Initiatives	35
2.6	Further EU Policy Fields of Relevance for Space & Region	37
3	REGIONAL POLICY AND DEVELOPMENT IN AUSTRIA	40
3.1	Distribution of Areas of Competence and Remits	42
3.2	Conceptual Development Trends and Milestones	42
3.3	Status today: "Working in a Multi-level System"	45
3.4	Challenges for Regional Policy	49
4	CONCEPTS AND OBJECTIVES OF SPATIAL PLANNING	54
4.1	Spatial Planning	56
4.2	Objectives and Principles of Spatial Planning	57

5	DISTRIBUTION OF AREAS OF COMPETENCE AND PLANNING LEVELS	60
5.1	Distribution of Areas of Competence and Remits.....	62
5.2	Planning Levels	65
6	DEVELOPMENT PHASES OF AUSTRIAN SPATIAL PLANNING LAW	68
6.1	The Transformation of Planning	70
6.2	Planning Phases.....	70
6.2.1	Phase 1: The legal basis is created (1925 to 1973)	70
6.2.2	Phase 2: Development planning with environmental priorities (from 1974).....	71
6.2.3	Phase 3: Land policy planning measures and regional planning (from 1990)	71
6.2.4	Phase 4: Differentiated and detailed regulations (from 2000)	72
6.2.5	Phase 5: From government to governance (from 2005)	72
7	PLANNING INSTRUMENTS.....	74
7.1	Spatial Planning Regulatory System.....	76
7.2	Sectoral Planning by the Federal Government	77
7.2.1	Forestry.....	78
7.2.2	Water management.....	79
7.2.3	Transport routes – railways, federal roads, navigation, aviation.....	80
7.2.4	Energy law	83
7.3	Sectoral Planning by the Länder	85
7.4	Cooperation and Information Obligations in the Spatial Planning Laws	86
7.5	Regional Spatial Planning and Regional Planning	87
7.5.1	Basic research and spatial planning land registry	88
7.5.2	Regional diversity of instruments	89
7.5.3	Land development schemes and programmes.....	92
7.5.4	Development programmes for sub-regions (regional planning)	96
7.5.5	Sectoral spatial programmes (Sachprogramme)	100
7.6	Local Spatial Planning.....	100
7.6.1	Development concepts	103
7.6.2	Zoning plan	104
7.6.3	Development plan.....	111
7.6.4	Non-binding local spatial plans	112
7.7	Building Land Mobilisation Instruments	113
7.7.1	Spatial planning contracts	113
7.7.2	Limited-period zoning as building land	116
7.7.3	Collection of infrastructure charges	116
7.7.4	Procurement of building land – property purchases.....	117
7.7.5	Building land consolidation	117

8	SPATIAL PLANNING PROCEDURES AND PROCESSES.....	120
8.1	Planning Procedures in Regional Spatial Planning.....	123
8.2	Planning Procedures in Local Spatial Planning.....	123
8.2.1	Formal planning procedures.....	124
8.2.2	Informal planning processes.....	127
8.2.3	Changes to local spatial plans.....	128
8.2.4	Legal certainty in planning – regulatoryreview procedure.....	130
9	CHALLENGES FOR SPATIAL PLANNING IN AUSTRIA.....	134
10	ANNEX.....	142
I	Institutions and Actors	144
II	The Legal Basis of Spatial Planning in Austria	146
III	Index Lists.....	158
	References	158
	Abbreviations	161
	Figures	163
	Tables	164
	ÖROK series index	165

SUMMARY

This publication is available in German with the title “Raumordnung in Österreich und Bezüge zur Raumentwicklung und Regionalpolitik”. The English version is a translation and the German is the authentic version.

Generally, **spatial planning** refers to the entirety of measures and activities of public authorities used to shape the **development of a territory** based on political goals.

Spatial planning in Austria features a **complex and highly differentiated planning system** considering the relatively small territory of the country and the size of the population. The foundation for the distribution of areas of competence for planning was established by the Constitution of the First Republic and the amendments to it of 1925 that distributed the areas of competence in detail among the federal government, Länder and municipalities.

The federal government is responsible for legislation and for execution of all administrative matters assigned to it by the Federal Constitutional Act (B-VG). Competence for legislation and implementation is shared by the federal government and the Länder in some sectoral matters, although most public administration tasks being the remit of the Länder due to a general clause.

Pursuant to a decision by the Constitutional Court of 1954, spatial planning is not a matter belonging to a specific sphere of administration, but rather a matter that concerns many sectors. The different authorities at the federal, Land and municipal level have planning remits. This legal situation regarding the distribution of areas of competence has characterised spatial planning in Austria ever since.

Different sectors have different **sectoral planning (Fachplanung)** both at the federal and Land levels. In accordance with applicable laws, the federal ministries and the respective offices of the Land governments – in Vienna, the city administration (Magistrat der Stadt Wien) – have the possibility of drafting forward-looking plans and are responsible for approval procedures by the authorities. Resolutions on

such sectoral plans are adopted at the federal level by the federal government or ministries, and at the Land level by the collective body of the Land government. Key sectoral plans exist under water laws and forestry laws as well as for infrastructure (roads, railways, electricity grids, etc.).

There is no federal law for spatial planning, and therefore, no framework legislation at the federal level. Instead, the **Austrian Conference on Spatial Planning (ÖROK)** was set up as a coordinating body, with the federal chancellor acting as chairperson (this function as chairperson may be delegated to the competent minister) and including representatives of the federal government and the Land governments as well as interest group representatives, especially, the associations of towns and municipalities. The **Austrian Spatial Development Concept (ÖREK)**, which is prepared every ten years by the ÖROK, and the **ÖROK recommendations** for the different priority areas serve as recommendations for planning bodies.

Legislation in the area of spatial planning is the remit of the individual Länder. The Länder have passed their own planning laws which contain objectives and instruments for firstly, **regional spatial planning (überörtliche Raumplanung)**, and secondly, **local spatial planning (örtliche Raumplanung)** by the municipalities. In accordance with the legality principle, planning bodies are only permitted to act on the basis of an authorisation granted by law. Planning acts are implemented primarily in building codes, there exist no separate planning permits in Austria.

Generally, planning acts may be differentiated on the basis of the spatial planning laws (**nominal planning**), and in a wider sense, on the holistic coordination of planning with a territorial impact (**functional planning**).

Nominal spatial planning is effective primarily through **sovereign acts relating to planning** and the corresponding generally valid regulations passed. As a supplement there are **conceptual planning instruments** that are non-binding. Spatial planning laws now give planning bodies also the possibility of ente-

ring into private law contracts with property owners in order to be able to achieve certain planning objectives (**spatial planning contract**).

Planning bodies cannot define content arbitrarily, but must base their decisions on well-founded reasons. All planning decisions may be argued with a view to the **objectives** and **principles** defined by law referring to **basic research** which investigates the general spatial, cultural, economic, social and ecological conditions. Such objectives and principles may include, for example, the attainment of a balance in living conditions, careful stewardship of resources, protection of valuable nature and landscapes as well as economic development and the conservation of usable space for farming. Planning bodies have room for discretion here within which they may evaluate the different objectives using the findings from basic research to arrive at qualified and well-founded decisions.

The planning instruments at the disposal of planning bodies in this context differ with respect to the regional and the local level. The Land parliaments may adopt spatial planning and development programmes for parts or the entire territory of a Land. The usually define the further development of building land. The sectoral programmes may define priority themes (e.g. wind farms, skiing areas, etc.) and quality/quantity development criteria. The Land governments may also adopt schemes which are recommendations in nature and are not mandatory for municipalities. In some Länder there are additional **regional planning levels** that permit conceptual or binding plans to be adopted.

Municipalities are a central planning level and are responsible for local spatial planning. The municipalities are responsible for the concrete land use plans at the level of the plots of land. Most Länder define the framework for strategic **local development concepts** (**örtliches Entwicklungskonzept**). The municipalities define their own objectives and spatial planning priorities within these concepts for the next ten to twenty years. The actual planning of permissible land uses is done through **zoning plans** (**Flächenwidmungspläne**). These make it possible for property owners and authorised users to use the land for certain building purposes in accordance with the zoning category. The instrument of **land development plans** (**Bebauungsplan**) is used to define how land may be built up and used, and also for determining areas for transport routes. These plans contain concrete statements on what is permitted to be built on specific plots of land.

Procedures in spatial planning are subject to the procedural rules laid down in the spatial planning laws. Thus, a strategic environmental assessment must be conducted for planning regulations – and amendments thereto – if major effects on the environment are to be expected. The supervisory authority for planning regulations of municipalities is the **Office of the Land Government**. Planning acts must be made available for inspection and for statements of opinion, and must be approved by the supervisory authority after they are adopted and this fact must be made public for the planning acts to take legal effect.

Spatial planning in Austria is therefore a fragmented field as regards the distribution of areas of competence, but at the same time, it features a highly hierarchical structure. Therefore, a central challenge is achieving the coordination of the different planning activities of the federal government, the Länder and the municipalities. As the formal mechanisms are not always sufficient and the practice of involving civil society is gaining ground, cooperative and informal planning processes are becoming more important. In this context, **innovative and cooperative solutions** are being developed to supplement sovereign regulatory planning.

The trend towards development-oriented planning processes in spatial planning is encouraging the smooth transition between **spatial development** and **regional policy development processes**.

The term **regional policy** is not defined by law in Austria. However, in practice a cooperative system has evolved which is characterised by coordination and cooperation in the policy fields and among the territorial authorities.

EU cohesion and agricultural policy instruments have made it possible as of the mid-1990s to substantially increase funding dedicated to regional policy and to significantly raise the standing of the Länder as regional policy actors. This also supported the rollout in Austria of regional policy approaches for entire regions.

Therefore, regional policy today is only to a very limited extent classical in the meaning of taking measures to counteract trends in structurally disadvantaged regions. The main focus is rather on providing financial assistance for the development of entire regions. With the support of development organisations, a (regional) policy mix is now used to mobilise potentials and to counteract problematic issues.

At the national level there is a comprehensive set of strategies that serve as guidance. The Austrian Spatial Development Concept (ÖREK) contains explicit spatial components. Today, the Länder have a broad architecture for **spatial, sectoral and economic development strategies**. As regards the institutions, there are a number of regional development agencies in the Länder that support the implementation of current strategies in the field of regional planning. In all Länder, there are regional development organisations that are established either at the Land level and have a mobilisation effect in the regions or have been set up on the basis of regional development associations (so-called regional management organisations).

The **European level** functions as a source of **orientation and guidance** (e.g. Territorial Agenda), but also has a direct effect on regional policy in Austria with respect to (i) statutory requirements (e.g. in EU competition and state aid law) and (ii) the European Structural and Investment Funds that are implemented using the system shared funds management between the EU and the member states. The funds and programmes define the priorities in Austria in the different types of areas (rural regions, spaces with potential, urban regions, cross-border and transnational regions) and complement each other in this manner.

The Austrian approach to regional policy which is traditionally based on **cooperation** and **coordination** also creates a number of challenges. Among other things, mention must be made of effective and effi-

cient communication and coordination processes in the multi-level system and the feat of overcoming borders, especially within Austria (between the Länder and between cities and their catchment areas). As the focus of the European Funds is shifting increasingly to sectoral investment strategies entailing more and more demanding administrative requirements, a decline in innovation capacity of the cohesion policy programmes is emerging. Therefore, the national regional policy actors are being called on to present innovative concepts and programmes.

Overall, the trend in **spatial planning** in Austria is moving towards **more regulation** and greater **differentiation**. In practice this also means that execution and application will become more difficult and that expert knowledge is of enormous importance. At the same time, the increasing digitisation of the planning materials such as planning acts is making it possible to make these available in a transparent form to the broad public. Moreover, the procedures for regulations have been migrated to web-based systems (e.g. electronic zoning plan).

The **challenges** for the future development of spatial development result from the many different trends and tendencies. Regional disparities, global competition, population growth, demographic change, climate change, loss of farming land, etc. cannot be solved alone by sovereign planning instruments. Therefore, the significance of governance-based informal planning processes as a supplement to the instruments of spatial planning is growing.

ZUSAMMENFASSUNG

Die vorliegende Studie wurde auf Deutsch unter dem Titel „Raumordnung in Österreich und Bezüge zur Raumentwicklung und Regionalpolitik“ publiziert. Die englische Version ist eine Übersetzung. Zur Information wird die deutsche Zusammenfassung auch in der englischen Version angeführt.

Allgemein kann als Raumordnung – oder auch Raumplanung – die Gesamtheit der Maßnahmen und Aktivitäten öffentlicher Gebietskörperschaften verstanden werden, die die Gestaltung des Territoriums, basierend auf politischen Zielvorstellungen, zum Gegenstand haben.

Die Raumordnung in Österreich verfügt in Anbetracht der vergleichsweise geringen räumlichen und bevölkerungsmäßigen Landesgröße über ein überraschend **komplexes und stark ausdifferenziertes Planungssystem**. Grundstein der Kompetenzverteilung in der Planung legte insbesondere die Verfassung der ersten Republik und deren Änderung 1925, mit der die Kompetenzverteilung zwischen Bund, Ländern und Gemeinden im Detail festgesetzt wurde.

Dem Bund obliegen in Gesetzgebung bzw. Vollziehung alle Verwaltungsmaterien, die ihm im Bundesverfassungsgesetz (B-VG) zugeordnet werden. Einige Materien teilen sich Bund und Länder in Gesetzgebung bzw. Besorgung und ein großer Teil der öffentlichen Verwaltungsaufgaben fällt aufgrund einer Generalklausel an die Bundesländer.

Die Raumordnung ist entsprechend einer Entscheidung des Verfassungsgerichtshofes aus 1954 keine eigene Verwaltungsmaterie, sondern eine sogenannte **Querschnittsmaterie**. Verschiedene Behörden auf Bundes-, Landes- und kommunaler Ebene sind mit Planungsaufgaben befasst. Diese kompetenzrechtliche Ausgangslage prägt seitdem die Raumordnung in Österreich.

Auf Bundes- und Landesebene gibt es Fachmaterien mit **Fachplanungen**. Ministerien sowie die jeweiligen Ämter der Landesregierungen – in Wien das Magistrat – haben hier entsprechend der gesetzlichen Rahmenbedingungen die Möglichkeit, zukunftsgerichtete

Planungen vorzunehmen und sind für behördliche Genehmigungsverfahren zuständig. Die Beschlussfassung solcher Fachplanungen erfolgt auf Bundesebene durch die Bundesregierung oder MinisterInnen und auf Landesebene durch das Kollegialorgan der Landesregierung. Wichtige Fachplanungen gibt es etwa im Wasser- und Forstrecht sowie im Bereich der Infrastruktur (Straßen, Eisenbahnen, Stromnetz etc.).

Es gibt keine koordinierende Bundesraumordnung und somit auch keine Rahmengesetzgebung auf Bundesebene. Stattdessen wurde mit der **Österreichischen Raumordnungskonferenz (ÖROK)** ein koordinatives Gremium eingerichtet, dem der Bundeskanzler/die Bundeskanzlerin vorsitzt (dieser Vorsitz kann an den zuständigen Fachminister bzw. die zuständige Fachministerin delegiert werden) und in dem neben VertreterInnen des Bundes und der Länder auch Interessenvertretungen und hier vor allem der Städte- und Gemeindebund vertreten sind. Das alle zehn Jahre von der ÖROK erstellte **Österreichische Raumentwicklungskonzept** sowie die **ÖROK-Empfehlungen** zu unterschiedlichen Schwerpunkten haben aber allesamt nur einen empfehlenden Charakter für die Planungsträger.

Die Gesetzgebung in der Raumordnung liegt bei den einzelnen Bundesländern. Diese haben eigene Planungsgesetze erlassen, die einerseits die sogenannte **überörtliche Raumplanung** und andererseits die **örtliche Raumplanung** der Gemeinden in ihren Zielen und Instrumenten regeln. Entsprechend des Legalitätsprinzips dürfen Planungsträger hier nur auf Basis gesetzlicher Ermächtigungen agieren. Planungsakte werden in erster Linie im Bau-recht umgesetzt, da es in Österreich keine eigenen planungsrechtlichen Bewilligungen gibt. Grundsätzlich können Planungsakte auf Basis der Raumordnungsgesetze (**nominelle Planung**) und weiter gefasst die gesamtheitliche Abstimmung von raumwirksamen Planungen (**funktionale Planung**) unterschieden werden.

Die nominelle Raumplanung besorgt ihre Planungsaufgaben großteils als **hoheitliche Ordnungsplanung** mit entsprechenden allgemeingültigen Ver-

ordnungen. Ergänzend dazu gibt es **konzeptive Planungsinstrumente**, die nur einen Selbstbindungscharakter aufweisen. Die Raumordnungsgesetze sehen mittlerweile für Planungsträger die Möglichkeit vor, auch privatrechtliche Verträge mit GrundstückseigentümerInnen abzuschließen, um gewisse planerische Zielsetzungen erreichen zu können (**Vertragsraumordnung**).

Planungsträger können nicht willkürliche Inhalte festlegen, sondern müssen ihre Entscheidungen fundiert begründen. Auf Basis einer sogenannten **Grundlagenforschung**, die die räumlich, kulturell, wirtschaftlich, sozial und ökologisch wesentlichen Rahmenbedingungen erhebt, sind alle Planungsentscheidungen im Hinblick auf per Gesetz definierte **Ziele** und **Grundsätze** zu argumentieren. Solche Ziele und Grundsätze sehen etwa das Herstellen ausgewogener Lebensbedingungen, den schonenden Umgang mit Ressourcen, den Schutz von wertvollen Natur- und Landschaftsräumen, aber auch die Möglichkeit einer wirtschaftlichen Entwicklung sowie die Erhaltung bewirtschaftbarer Nutzflächen vor. Den Planungsträgern kommt hier ein Ermessensspielraum zu, in dem sie die unterschiedlichen Ziele auf Basis der Grundlagenforschung abwägen und so zu einer fachlich begründeten Entscheidung gelangen.

Die Planungsinstrumente, die die Planungsträger hier nutzen können, unterscheiden sich auf überörtlicher und örtlicher Ebene. Die Landtage können Raumordnungs-/Entwicklungsprogramme für das gesamte Bundesland oder Landesteile beschließen. Diese setzen idR räumlich abgegrenzte Rahmenbedingungen für die weitere bauliche Entwicklung. In Sachprogrammen können thematische Schwerpunkte (z. B. Windkraftanlagen, Schigebiete etc.) gesetzt und Qualitäts-/Quantitätskriterien für Entwicklungen definiert werden. Die Landesregierungen können auch Konzepte mit einer Selbstbindung beschließen, die dann von den Gemeinden aber nicht zwingend umzusetzen sind. In den einzelnen Bundesländern gibt es teilweise eine formal eingerichtete **regionale Planungsebene**, auf der ebenfalls konzeptive oder verbindliche Planungen möglich sind.

Eine zentrale Planungsebene sind die **Gemeinden**, die für die Besorgung der örtlichen Raumplanung in ihrem eigenen Wirkungsbereich zuständig sind. Das bedeutet, dass die Länder nur Planungen, die nicht im überwiegenden Interesse der einzelnen Gemeinden liegen, vornehmen können. Die Gemeinden sind für die konkrete Nutzungsplanung auf Grundstück-

sebene zuständig. Die meisten Bundesländer kennen ein strategisch orientiertes **örtliches Entwicklungskonzept**. In diesem können Gemeinden ihre eigenen Zielsetzungen und räumlichen Entwicklungsschwerpunkte für die nächsten ein bis zwei Jahrzehnte festlegen. Die tatsächliche Planung der zulässigen Nutzungen erfolgt über **Flächenwidmungspläne**. Diese ermöglichen es den EigentümerInnen bzw. Verfügungsberechtigten, gewisse bauliche Nutzungen entsprechend der gewidmeten Kategorie zu realisieren. Rechtmäßig bestehende Nutzungen und Bauten sind von Änderungen in Flächenwidmungsplänen nicht betroffen. Für die bauliche Gestaltung und Ausnutzung von Grundstücken sowie die Festlegung von Verkehrsflächen, gibt es das Instrument der **Bebauungspläne**, in denen auf Grundstücksebene konkrete Aussagen zur zulässigen Bebauung getroffen werden können.

Verfahren in der Raumplanung unterliegen den in den Raumordnungsgesetzen entsprechend festgelegten Verfahrensbestimmungen. So sind Planungsverordnungen – und deren Änderungen – einer strategischen Umweltprüfung zu unterziehen, wenn erhebliche Umweltauswirkungen zu erwarten sind. Bei Planungsverordnungen der Gemeinden fungiert das **Amt der Landesregierung** als **Aufsichtsbehörde**. Planungsakte sind zur Einsicht und Stellungnahme aufzulegen und nach ihrem Beschluss aufsichtsbehördlich zu genehmigen und dies für die Rechtskraft auch kundzumachen.

Die Raumordnung weist in Österreich somit eine kompetenzrechtlich zersplitterte und gleichzeitig stark hierarchische Struktur auf. Eine zentrale Herausforderung ist daher die Abstimmung unterschiedlicher Planungen auf Bundes-, Landes- und Gemeindeebene. Da hier die formalen Mechanismen für eine Abstimmung nicht immer ausreichen und die Einbindung der Zivilgesellschaft allgemein an Bedeutung gewinnt, sind kooperative und informelle Planungsprozesse zunehmend von Bedeutung. Hier können insb. **innovative und kooperative Lösungen** erarbeitet werden, und sie ergänzen die hoheitliche Ordnungsplanung.

Durch den Trend hin zu entwicklungsorientierten Planungsprozessen in der Raumordnung kommt es vermehrt zu einem fließenden Übergang zwischen **Raumentwicklung** und **regionalpolitischen Entwicklungsprozessen**.

„**Regionalpolitik**“ ist in Österreich nicht gesetzlich normiert. In der gelebten Praxis hat sich ein koope-

ratives System herausgebildet, geprägt durch Koordination und Kooperation zwischen den Politikfeldern und den Gebietskörperschaften.

Die **EU-kohäsions- und agrarpolitischen Instrumente** unterstützen ab Mitte der 1990er-Jahre eine deutliche Ausweitung der unter dem Titel der Regionalpolitik gewidmeten Mittel und eine Aufwertung der Länder als regionalpolitische Handlungsebene. Ermöglicht wurde damit eine flächendeckende Ausrollung der regionalpolitischen Ansätze in Österreich. Es gibt damit heute nur mehr sehr eingeschränkt eine klassische Regionalpolitik im Sinne der Gegensteuerung von strukturell benachteiligten Regionen. Im Vordergrund steht vielmehr eine in allen Gebietstypen wirksam werdende **flächendeckende Entwicklungsförderung**. Unterstützt durch Entwicklungsorganisationen kommt ein (regionaler) Policy Mix zum Einsatz, um Potenziale zu mobilisieren oder Problemstellungen entgegenzusteuern.

Auf nationaler Ebene gibt es ein umfassendes Set an Strategien mit Leitlinien-Charakter. Explizit räumliche Komponenten weist das Österreichische Raumentwicklungskonzept auf. Die Bundesländer verfügen heute über eine umfassende Architektur von **räumlichen-, sektoralen und wirtschaftlichen Entwicklungsstrategien**. Institutionell gibt es neben den zuständigen Landesdienststellen eine Reihe von regionalen Entwicklungs- und Standortagenturen, die die Umsetzung bestehender Strategien unterstützen. In allen Ländern gibt es Regionalentwicklungsorganisationen, die entweder auf Landesebene angesiedelt sind und von dort aus in den Regionen aktivierend wirken oder auf Basis von regionalen Entwicklungsverbänden eingerichtet sind (sog. Regionalmanagements).

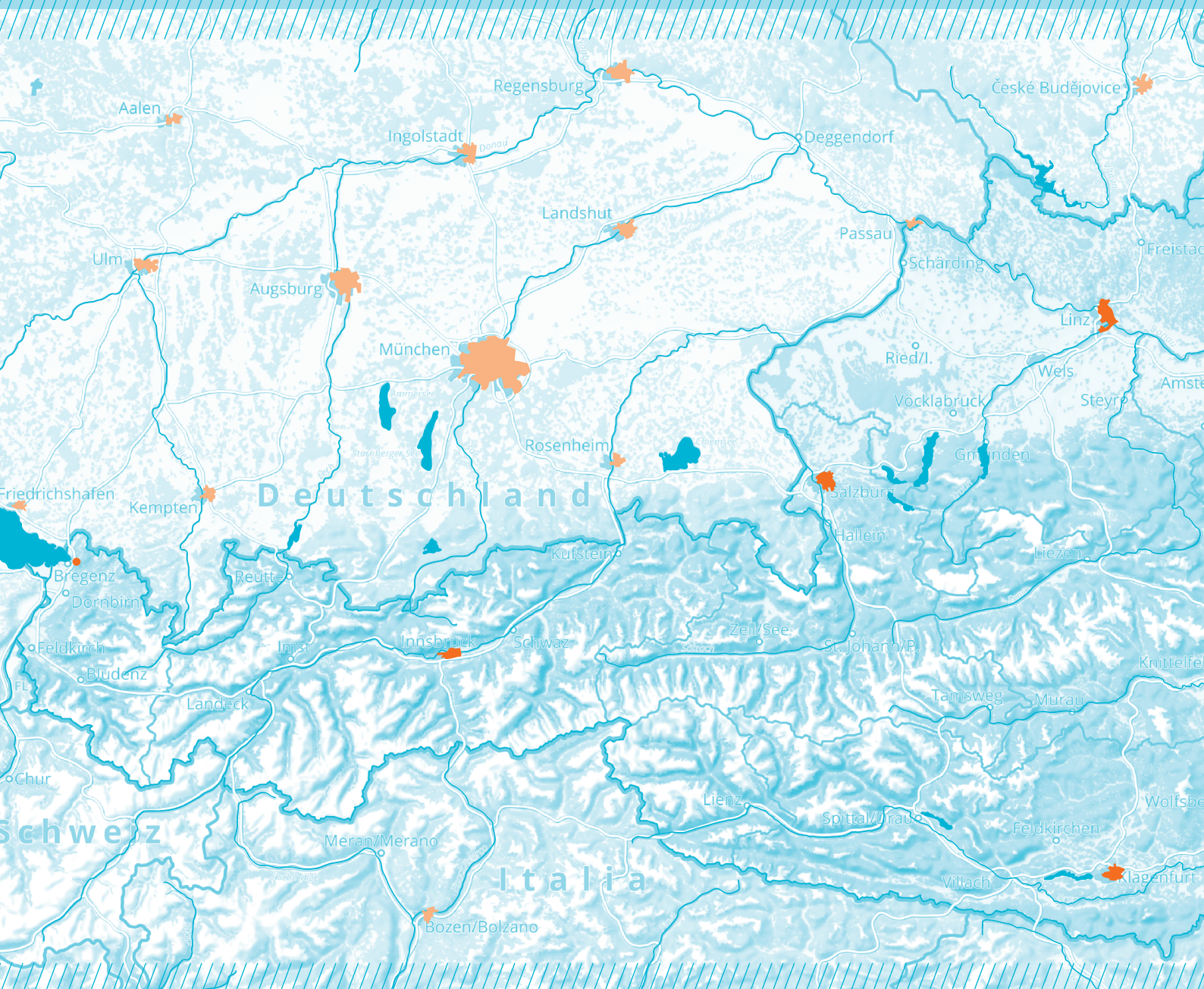
Die **europäische Ebene** übernimmt **Orientierungs- und Leitbildfunktion** (z. B. im Rahmen der Territorialen Agenda), hat aber auch unmittelbare Auswirkung auf die Regionalpolitik in Österreich über (i) rechtliche Vorgaben (z. B. im Rahmen des EU-Wettbewerbs- und Beihilfenrechtes) und (ii) den in der geteilten Mittelverwaltung zwischen EU und Mitgliedsstaaten implementierten Europäischen Struktur- und Investitionsfonds. Die Fonds und Pro-

gramme setzen in Österreich Schwerpunkte in unterschiedlichen Raumtypen (ländliche Regionen, Potenzialräume, Stadtregionen, grenzüberschreitende und transnationale Räume) und werden so komplementär zueinander eingesetzt.

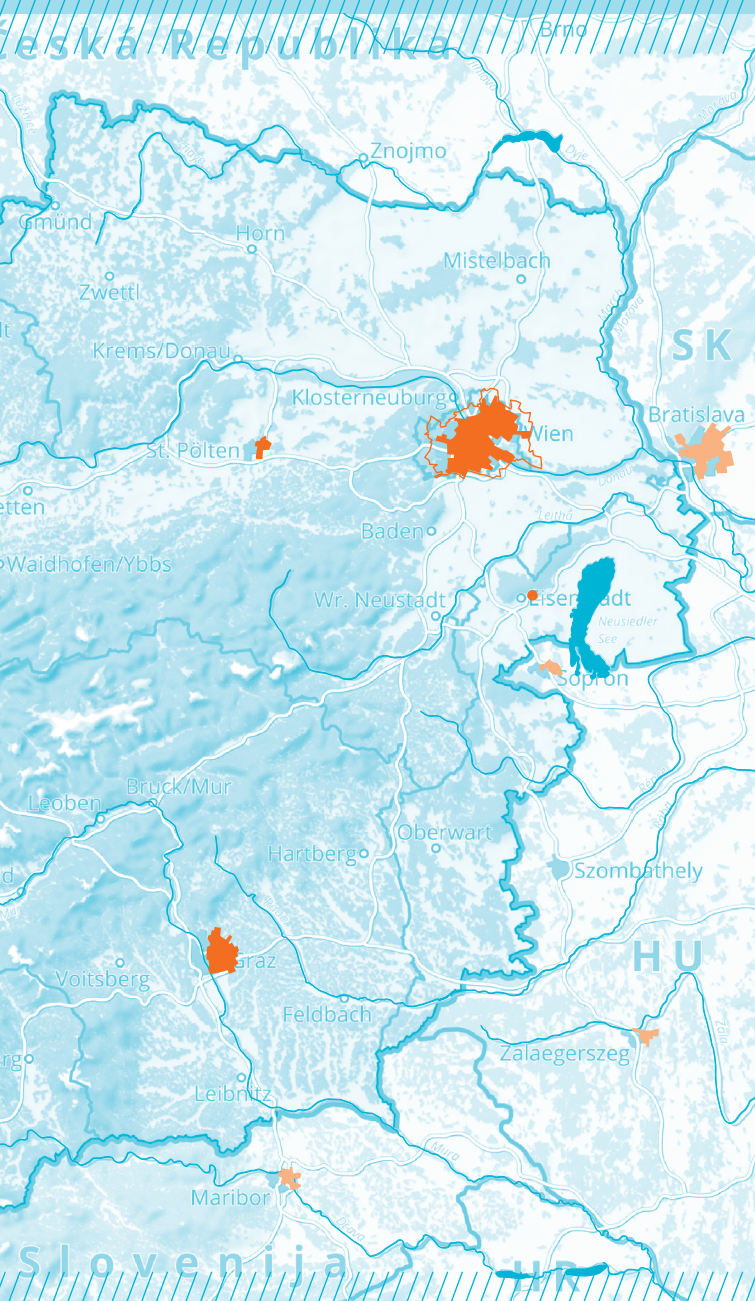
Der traditionell auf **Kooperation und Koordination** aufbauende österreichische föderale Ansatz der Regionalpolitik bringt einige Herausforderungen mit sich. Zu nennen sind u. a. die effektive und effiziente Gestaltung der Kommunikation und Koordination im Mehr-Ebenen-System und die Überwindung von Grenzen, insb. auch im innerösterreichischen Kontext (zwischen den Bundesländern und zwischen Stadt- und Umlandregionen). Da die zunehmende Ausrichtung der Europäischen Fonds auf eine sektorale Investitionsstrategie verbunden mit hohen und wachsenden administrativen Anforderungen zu einer abnehmenden Innovationskraft der kohäsionspolitischen Programme führt, sind aktuell verstärkt die nationalen regionalpolitischen Akteure gefordert, innovative Konzepte und Programme vorzulegen.

Insgesamt erlebt die Raumordnung in Österreich eine zunehmende **Verrechtlichung und Ausdifferenzierung**. Das bedeutet in der Praxis auch, dass der Vollzug und die Anwendbarkeit schwieriger werden und ExpertInnenwissen von großer Bedeutung ist. Gleichzeitig werden durch eine zunehmende Digitalisierung Planungsgrundlagen, wie Planungsakte transparent der breiten Öffentlichkeit zugänglich gemacht und auch die Verordnungsverfahren bereits auf web-basierte Systeme umgestellt (z. B. elektronischer Flwp).

Herausforderungen für die zukünftige Gestaltung der räumlichen Entwicklung ergeben sich aus unterschiedlichen Trends und Tendenzen. Regionale Disparitäten, ein globaler Wettbewerb, Bevölkerungswachstum, der demografische Wandel, klimatische Veränderungen, der Verlust von Agrarflächen etc. lassen sich nicht alleinig durch hoheitliche Planungsinstrumente bewältigen. Dementsprechend nimmt die Bedeutung von governancebasierten informellen Planungsprozessen als Ergänzung zu dem Raumordnungsinstrumentarium jedenfalls zu.



Spatial Conditions and Development Trends



1 SPATIAL CONDITIONS AND DEVELOPMENT TRENDS

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

1.1 Austria in Europe

The Republic of Austria is located in Central Europe and borders on the states of Germany, Czech Republic, Slovakia, Hungary, Slovenia, Italy, Switzerland and Lichtenstein. Over the centuries, Austria has played a strategically important role due to its location. Austria's topography features parts of it in the **Alps**, to the East in the **Pannonian Plain**, and also in the **Danube Region**. After Austria joined the EU (1 January 1995), it became embedded in the common economic and mobility region of Europe. In comparison, it is the tenth largest economy and with **8.8 million inhabitants**, it is the 15th most populous country in the EU 28. However, due to its central location in Central Europe it plays a key role with respect to the free movement of persons and goods. For example, Austria has major transportation routes across the Alps with its roads and railways (e.g. Brenner, Tauern, Karawanks). At **144 million overnight stays** (in 2017), Austria is also an important desti-

nation for culture, sports and recreational tourism. Austria has many diverse landscapes and natural resources due to its topography.

Austria accounts for a share of around **29% of the total area of the Alpine arc** and thus also the larger part of the Eastern Alps. The rugged norther limestone plateau of the Northern and Southern Limestone Alps, the central crystalline ridge and the forest-covered Eastern foothills of the Alpine arc cover almost two thirds of the country thus defining the central spatial characteristics that define structure and development of the settled areas. For this reason, living, work and mobility concentrate in the valleys in the western parts of Austria that is dominated by the Alps. The development requirements for these regions with **limited settlement space** are increasing - albeit at varying paces - and this is creating overlaps in use which may result in conflicts of interest.

Fig. 01: Topographic map of Austria

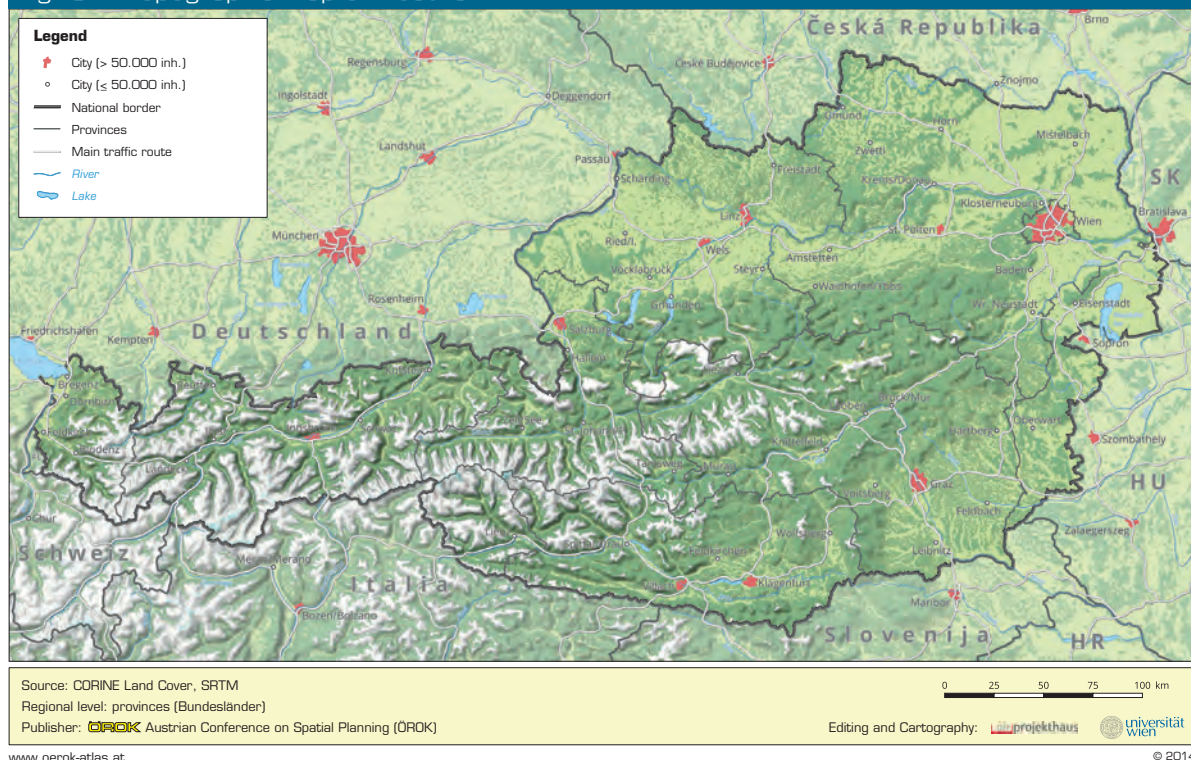
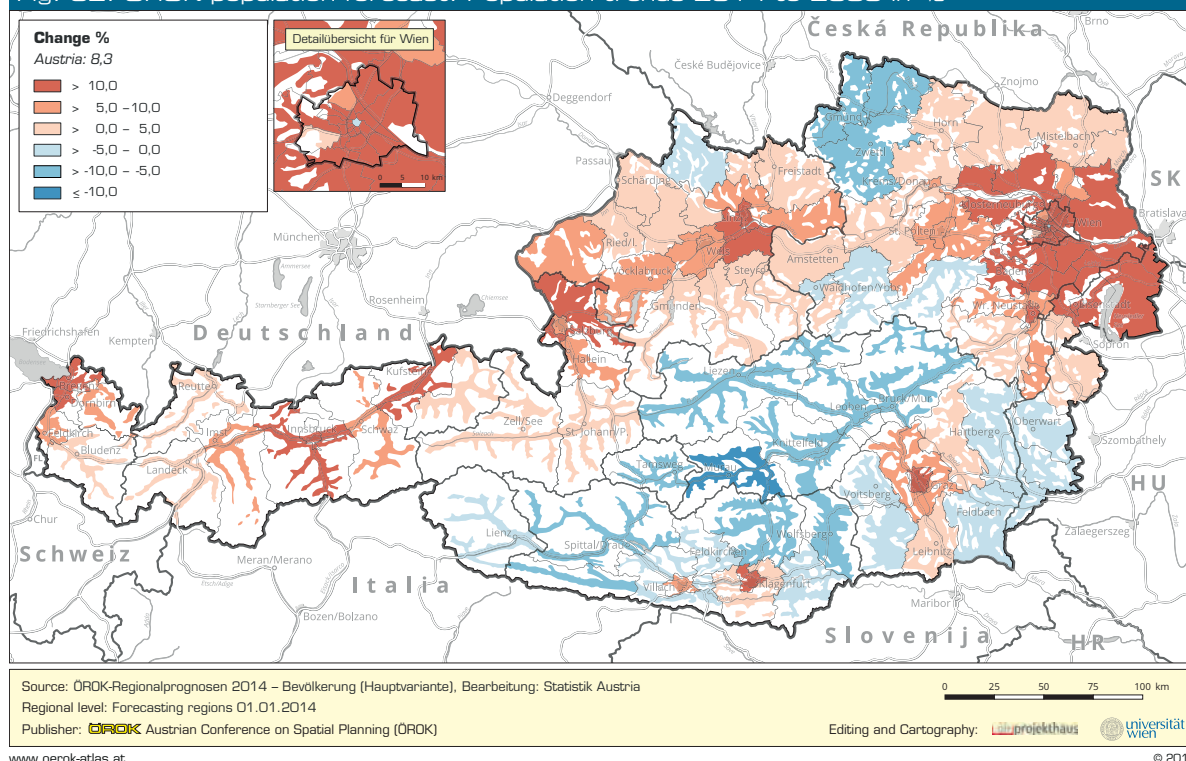


Fig. 02: ÖROK population forecast: Population trends 2014 to 2030 in %



Predominant in Austria is also the **Danube Region**, which is an important European West-East axis. Economic activities concentrate in this region as well as fertile farming land critical for securing the food supply. The easternmost part of Austria has areas reaching into the Pannonian Plain. There are hilly regions to the north and to the south that lie outside of alpine region.

Austria only has one city with over a million inhabitants. At 1.8 million inhabitants (as at 2015), **Vienna** is the federal capital, a Land (federal state, province) and a municipality at the same time. Further large cities are **Graz, Linz, Salzburg and Innsbruck** with around 280,000 to 130,000 inhabitants. A look at the agglomerations reveal larger interconnected areas that are not represented statistically though. Especially the axis Vienna-St. Pölten-Linz-Salzburg is dominated by urban areas.

Austria is rich in water resources on account of the Alps. This makes it possible to operate run-of-river power plants and reservoir power plants which cover some 70% of electricity consumption. Together with other power sources, a high share of total power production already comes from renewable energy sources. Reservoirs are used as pumped storage spaces to ensure grid reliability throughout the entire European power grid.

Austria participates at the strategic level in the spatial and economic development of the EU and also participates in two macro-regional EU strategies: since 2011, in the **EU Strategy for the Danube Region (EUSDR)** and since 2016 in the **EU Strategy for the Alpine Space (EUSALP)**. The goal is closer cooperation and collaboration among the members, with the European Commission taking over the coordination, monitoring and reporting on the progress of the strategies. Periodically, Austria acts as the chair for the two strategies and has an opportunity to influence spatial developments through jointly coordinated projects.

The **Trans-European Transport Networks (TEN)** are of great significance for the location and role Austria plays in the EU. The overall network, which is coordinated with the member states, is to be completed by the end of 2050 and the high priority core network by 2030. Austria is part of three of the nine corridors of the core transport network: The Rhine-Danube, Baltic-Adriatic Corridor and Scandinavian-Mediterranean corridors. The construction of the Semmering Base Tunnel and the Koralm Railway are part of the Baltic-Adriatic corridor. The Brenner base tunnel is part of the Scandinavian-Mediterranean Corridor.

Despite the tight spatial and functional relationships among EU member states within a common econo-

mic area, the **European Union** does not have any formal spatial planning competence, but influences the Austrian planning system through a number of spatially relevant **regulations** and especially through **directives**. Important are, above all, regulations on procedural law aspects, thresholds (e.g. noise emissions) and environmental protection and nature conservation (e.g. Birds Directive, EU Water Framework Directive). In accordance with the contractual obligations as a member state of the EU, Austria has enacted these Directives into national law and is under the obligation to apply the law. Apart from being embedded in the European legal system and EU cohesion and regional policy programmes, European (development) strategies are also of significance for Austria.

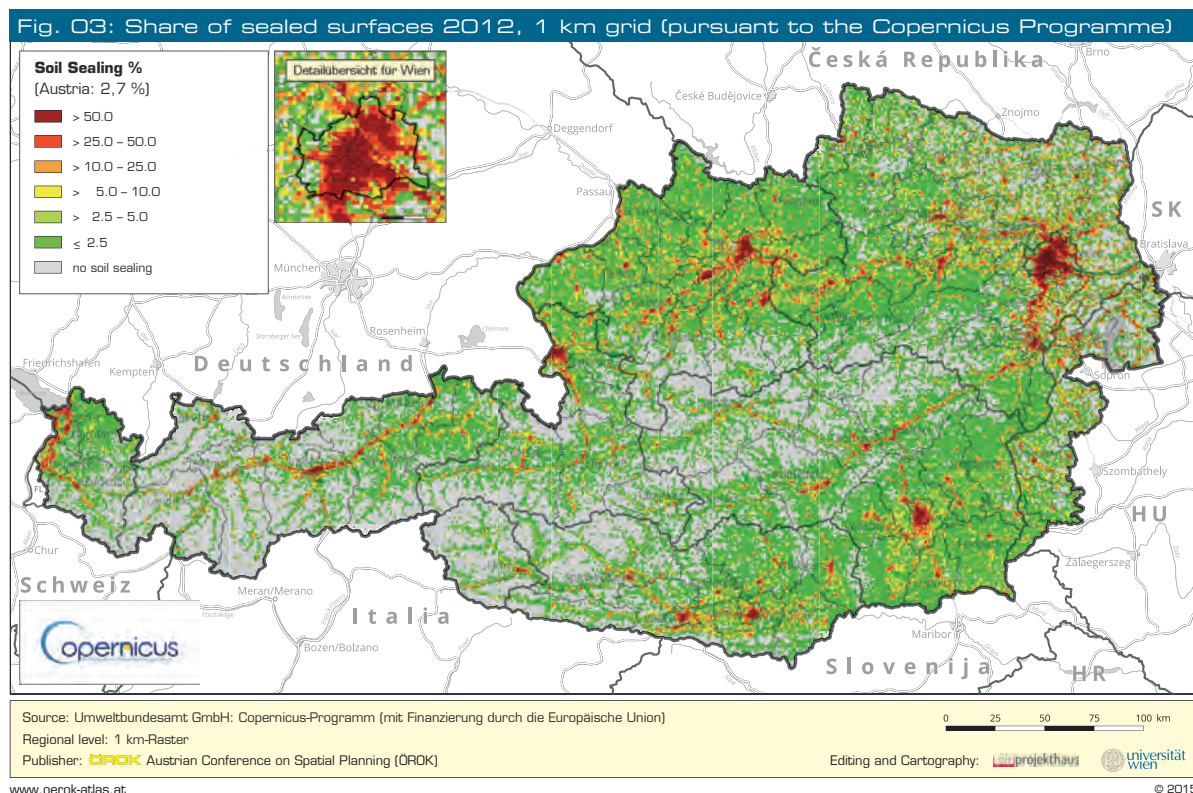
1.2 Population and Settlement Trends

At the start of the year 2017, around 8.8 million persons had their principal place of residence in Austria. Around more than half were women and some 20% were younger than 19 years. Austria has an overall **positive net population balance**, with the slightly negative net birth rate being offset by in-migration. A challenge for the social system is the growing share of persons in the total resident population over the age of 65. In-migration has not been a stable measu-

re over the decades and its fluctuation is driven especially by the geopolitical situation and conflicts. Apart from in-migration from EU member states, a particularly high number of refugees were accepted in Austria in the year 2015.

A look at the population development at the municipal level reveals **dynamic growth regions**. The rise in population concentrates mainly in urban agglomerations and in the catchment areas within commuting distance. These growth regions include mainly the Vienna core area with the western axis via St. Pölten, Linz, Wels to Salzburg as well as the Graz region, Inntal and Rhine Valley. Areas within the inner Alpine regions tend to have a declining population, which may also lead to structural economic and social challenges. The current forecast on population developments until 2030 of the regional monitoring system of the Austrian Conference for Spatial Planning clearly reflects the dynamic growth regions. Thus, the urban agglomeration areas may expect growth rates of over 10% for the period 2014 to 2030, while the inner Alpine valleys in some cases are prognosticated to see population declines of over 10% during the same period.

Therefore, **population development** will probably continue to concentrate in the central areas. This



results accordingly in the corresponding demand for the supply of basic services, especially housing and jobs, which from a spatial planning view results in greater demand for settlement areas as well as building land and transport routes.

A largely constant trend in Austria is the very high **land use rate**.¹ Daily land utilisation – calculated by the Austrian Federal Environmental Agency (Umweltbundesamt) – was 14.7ha/day throughout Austria for the period 2013 to 2016, which illustrates that the utilisation of space in a growing economy and population is still happening by the rezoning of undeveloped areas.

Therefore, a central challenge for spatial planning in Austria is to promote **strategies to use less space**. The principles of internal and external development, prevention of landscape despoliation as well as quantitative soil protection with a view to areas valuable for farming and forestry production must be given more consideration in planning at all levels.

Austria's Alpine topography means a strong axial development along the valleys and a clear **limitation of usable space**. Thus, the eastern Länder of Burgenland, Lower Austria, Upper Austria, and Vienna have a share far above 50% of usable land. In contrast, Tyrol as an Alpine province only has 12.4% usable land.

The **western and southwestern Länder** (Salzburg, Styria, Carinthia, Tyrol and Vorarlberg) are characterized by a low share of potential settlement areas. Tyrol as an Alpine province only has 12.4% usable land. The settlement pressure - even though it varies from region to region - therefore concentrates in a small area with usable land that features a high degree of **sealed surfaces**. As shown in Figure 3, it is especially the Alpine valleys (Inntal, Rhine Valley) as well as the municipalities along major transport axes and in the area of agglomerations that have a high degree of sealed surfaces.

In Austria, the **tertiarisation of society** has also significantly changed the way we live. Since the 1950s, the single family home has become the prevalent housing form - especially in rural areas - with a high degree of land use and a low settlement density. At the same time, the **size of residences** has increased and the **size of households** has decreased. Therefore, the average size of a flat used as principle place of resi-

dence is now 99.6 m², while the household size has decreased over the years to around 2.2 persons per household. The average residential space per person is therefore 44.8 m².

In line with the general European trend, **real estate prices and rental costs** have risen also in Austria in the past few years and the median figure was EUR 465 per person in 2017. In European comparison, housing costs in Austria are relatively low, because there is an extensive system of subsidized housing. These include, for example, subsidised public housing estates. There are also restrictive tenant protection laws in place that help to keep rents low. The ownership ratio in Austria is currently 47.8%. The number of apartment and buildings built has been steadily rising in the past few years. Thus, 56,539 new apartments were built in 16,517 apartment buildings in 2016. Additionally, 4,623 non-residential buildings were erected. While the number of newly constructed apartments increased per year as compared to 2005 by more than 18,000 units, the number of buildings has decreased.

1.3 Economic Development and Labour Market

Austria is a small economy in European comparison and strongly embedded in the surrounding economic areas. **Gross domestic product** has been rising steadily since the economic crisis 2008/09 and is now around **EUR 370 billion** (as at 2017). The Austrian markets are generally strongly focused on consumption. The trade balance is usually slightly positive.

With a view to competitiveness, Austria has a leading position within the EU with respect to the **R&D ratio** as well as to **GDP per capita**. Likewise, tourism plays a key role in Austria for the economy. Generally, Austria has a relatively typical distribution of gainfully employed persons across the economic sectors. Only around 4.4% of gainfully employed persons work in the primary sector, around 25% work in the industrial sector and more than two thirds in the services sector.

Agriculture is largely mechanized with a focus on the production of food and animal feed for the national and international markets, with a very diverse structure of farming enterprise. With over 160,000 enterprises, the largely small-scale farming and forestry enterprises make a main contribution to the preservation of rural areas and its extensive cultural

1 Land utilisation is defined as the permanent loss of biologically productive soil through the development of land for construction and transport purposes, recreation or excavation.

Fig. 04: Settlement development in the region of Lauterach (Vorarlberg), 1950s and 2015



Land Vorarlberg, VOGIS

landscape that is important for tourism. A key priority for Austria's agriculture is the protection of natural resources, which is reflected in the high participation rate in measures of the agricultural environmental programme. The share of organic farming has now risen to 24% of the cultivated area.

Industry traditionally plays an important role in Austria and there are a number of firms with billions in revenues and a large number of employees (OMV AG, voestalpine AG, Borealis AG and Mondi AG). Old industrial sites in the Alpine valleys were closed down - and are still being closed down - and commercial and industrial activities are concentrating mainly on sites in the core areas and along the high priority transport routes.

The **services sector** provides the greatest share of jobs in Austria also due to the high significance of tourism. Overnight stays were higher by 4.1% to 140.0 million in 2016 and thus far above the long-year average measured starting in 2000, but also surpassing the pace of development of the EU 28.

The **tourism intensive Alpine Länder** have accordingly high gross regional products that are often far

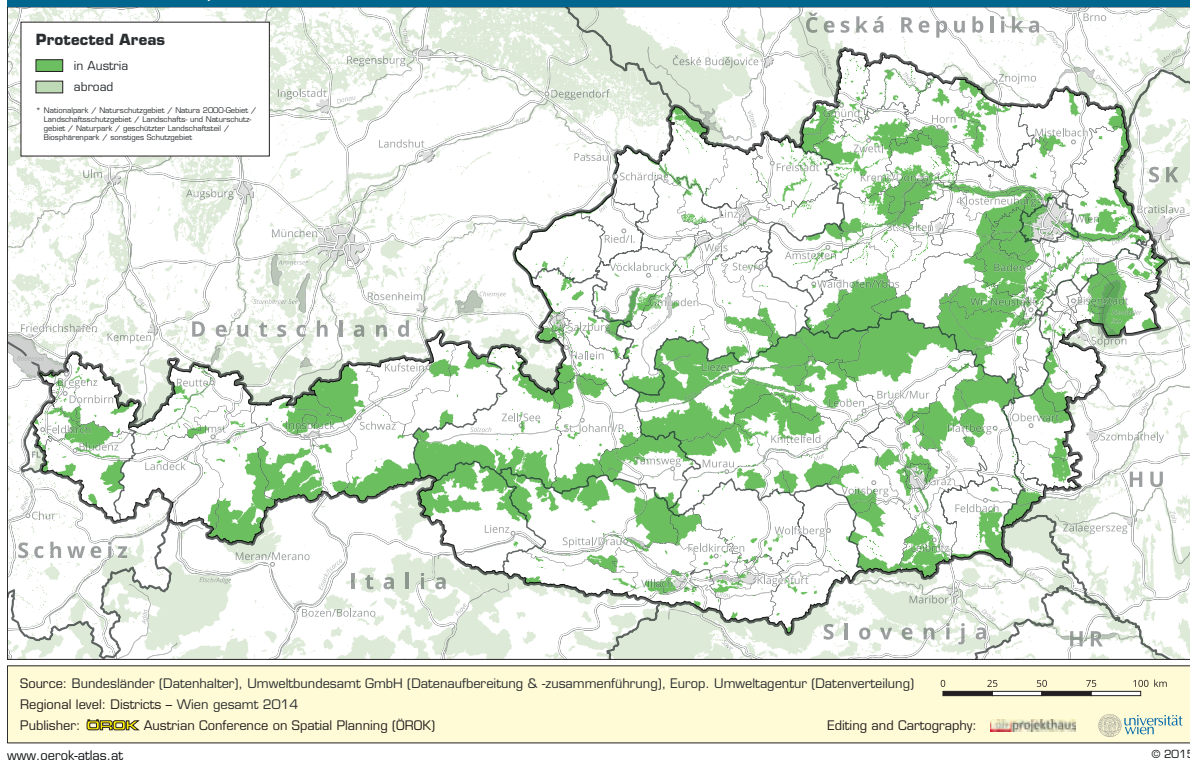
above the EU average. For example, gross regional product of Salzburg is even higher than in the capital of Vienna. The largest tourism market is still Germany that accounts for a share of over 50% of all overnight stays by foreigners.

In connection with tourism in Austria, but also with the traffic crossing the Alps to tourism destinations on the Adriatic Sea, there is also a large share of recreational and tourism mobility in addition to existing job and educational mobility.

1.4 Transport and Mobility

Austria's geographic situation in the middle of Central Europe means that the high priority transport infrastructure plays a key role for the movement of persons and goods in Europe. Austria has a well-established and extensive railway network despite the Alpine topography and a public transportation system featuring various modes of transport. The central transport axes are mainly the **motorways and highways**. The Alpine transit routes across the Brenner and Tauern are especially important routes while the Westautobahn motorway from Salzburg via Linz to Vienna is a central West-East route.

Fig. 05: Protected areas 2014 (national parks, Natura 2000 regions, nature conservation areas, ...)



As regards **freight transport**, carriage by roads is still a dominant form of transport, with this being especially true for internal transport. In cross-border transport, roads are not as dominant. While the use of railways and ships as transport means has increased only slightly in the past decades, it is, above all, freight transport over roads that has increased. Overall, transport volumes amounted to around 488 tons. The most important neighbours for freight transport are Germany and Italy. Generally, both cross-border and internal freight transport is steadily increasing.

For local and long-distance transport, railways play a key role as means of transportation. Thus, ÖBB transported some 238 million persons in 2015, with the rates increasing year by year. In urban agglomerations, local transport means generally account for a higher percentage in the modal split, while rural regions are still strongly dependent on private cars. In 2016, there were 550 cars for every 1,000 inhabitants, with a rising tendency.

Investment in the enlargement of infrastructure is being steadily increased with a view to embedding the high-priority transport network into the **European TEN networks** and to accommodate the rising volume of transport and persons. This refers mainly to

the cross-border routes into Slovakia and the Czech Republic, and to upgrading the capacity and speed of the railway network. The Brenner Base Tunnel, the Semmering Base Tunnel and Koralm railway are examples of such projects.

With respect to **aviation**, Vienna International Airport (VIE) has achieved a solid position as an international hub that serves some 23 million passengers (in 2016). The other international airports in Graz, Innsbruck, Klagenfurt, Linz and Salzburg play a minor role regarding number of passengers, but are important for holiday travel and also business travel.

Danube navigation is slightly expanding in volumes of freight transport in Austria, but the faster growing market is currently excursions by ship.

1.5 Landscape and Natural Resources

Austria is well-known internationally as a tourist destination not only for its architectural and cultural treasures, but also for the variety and beauty of its landscapes that are characterised by farming and forestry. This **landscape diversity** was shaped by geology and the changes to the Alps during the Ice Age. There are numerous inner Alpine lakes (e.g. Attersee, Traunsee) and very differently formed mountainous regions and

also areas with glaciers. Outside of the Alpine regions, hilly country dominates, some of which are ideal for wine growing.

The site development since the 1950s and, among other things, skiing, has enormously reshaped and transformed the landscape in mountain areas. The stronger protection of agricultural and ecologically valuable space is therefore a key aspect in planning. The important task of soil and nature conservation is the remit of the Länder as regards legislation and implementation.

In accordance with the obligations to report and designate **Natura 2000 protected areas** in accordance with the Habitats Directive (Directive 92/43/EEC) and the Birds Directive (Directive 79/409/EEC), the Länder have designated protected areas. In the year 2015, 196 areas had been defined by law that cover 15% of the entire territory of Austria.

Internationally important protected areas are the six national parks classified pursuant to IUCN Category II. The first national park was designated in the 1980s and is National Park Hohe Tauern that covers territory in three Länder. The next designations were National Park Neusiedler See-Seewinkel (cross-border with Hungary), followed by National Park Donau-Auen, National Park Oberösterreichische Kalkalpen, National Park Thayatal and National Park Gesäuse. The areas designated as national parks were mainly original river courses, ecologically valuable lake landscapes and largely untouched mountain regions. Under the nature conservation acts of the Länder, there are many **further protected areas** which afford protection to small parts of landscapes or even individual places or objects (caves, old trees, etc.).

Apart from nature protection, Austria has an established system of **protection for townscapes and historic monuments**. The aim is to preserve settlement structures as ensembles and culturally or historically significant individual buildings for future generations.





2

The European Dimension of Spatial Development

2 THE EUROPEAN DIMENSION OF SPATIAL DEVELOPMENT

■ MARKUS GRUBER AND SIMON POHN-WEIDINGER

2.1 European Framework Strategies and their Significance for Spatial Development

Spatial planning is not a common EU policy and the debate regarding spatial development is traditionally conducted on a multilateral or bilateral level between states. Its nature at the EU level is predominantly informal and it serves primarily as guidance (e.g. within the scope of the Territorial Agenda).

With the inclusion of territorial cohesion as the third cohesion policy objective in the EU Treaty of 2007, “territorial development” was established as an area of competence of the EU and the “territorial dimension” was added to the EU framework strategy for Europe 2020.

Concrete implications for spatial development and regional policy result from (i) EU cohesion policy and common agricultural policy with respect to the promotion of rural development, urban policy as well as the larger area of European territorial cooperation and (ii) as already mentioned in Chapter 1, from the *acquis communautaire*, e.g., within the scope of EU competition law and state aid law.

However, it must be pointed out that the concept of “territorial cohesion” is not a concept that can easily be described in a binding definition. It should be understood more as an intent and political will rather than an objective situation that can be described (Schneidewind 2009)

From Lisbon to Europe 2020 Europe 2020 strategy

The European heads of states and governments met in Lisbon at the turn of the millennium to adopt a “general policy strategy” for the first time in response to the global challenges. Based on the experience with the phase-wise implementation of the so-called “Lisbon Strategy” and under the pressure of the economic crisis of 2008/2009, the **Growth and Employ-**

ment Strategy “Europe 2020” was adopted by the European Council in 2010 to accelerate the transition to a knowledge-based, green and inclusive market economy.² In Europe 2020, the territorial dimension was given greater attention in contrast to the previous strategy of Lisbon. Vertical policy coordination calls for Austria’s greater alignment to the agreed European objectives such as higher employment rates and a higher R&D ratio, the improvement of energy efficiency and lowering the share of the population at risk of poverty or social exclusion.

Territorial cohesion as an objective

The higher significance of territorial cohesion goes back to, among other things, the EU Treaty of Lisbon 2007. The Treaty added the objective of “**Territorial Cohesion**” as the third cohesion policy objective of the EU and therefore established it as an area of competence of the EU. A direct consequence of this development is the **Green Book on Territorial Cohesion** (EC 2008) published in 2008 as well as the establishment of the concept in the “Europe 2020” strategy in 2010 (European Commission (EC) 2010, 26). Thus, territorial cohesion is about ensuring “*the harmonious development of all these places and about making sure that their citizens are able to make the most of inherent features of these territories*” (EC 2008, 3).

“Territorial Agenda”

The discussion process on the **Territorial Agenda** is being conducted between states – in the tradition of the European Spatial Development Perspective (EUREK). The Territorial Agenda (TA 2020) presented for the first time in 2007 and revised in 2011 sets out the objective “*to more intensely integrate the territorial dimension into the diverse policy areas at all government levels and to guarantee the implementation of the Europe 2020 Strategy in accordance with the principle of territorial cohesion.*” (European Union 2011, 3).

2 As regards the work of drafting a new general strategy after 2020, proposals are expected only after the European parliamentary elections in 2019 and the new European Commission is appointed.

URBAN POLICY IN AUSTRIA

- With the scope of the implementation of the **Austrian Spatial Development Concept**, the “Cooperation Platform Urban Region” was established that develops the basic principles for a cooperative urban policy (e.g. **Agenda Urban Region in Austria**). The Agenda published in 2015 defines four fields of action: (i) settlement and location, (ii) undeveloped areas and environment, (iii) mobility and accessibility and (iv) diversity and cooperation. The outcome was six ÖROK recommendations for urban regional policy in 2017.
- **Cooperation projects between cities and their catchment areas** are given higher priority in EU cohesion policy programmes in Austria. The outcome of this development is support for the relevant cooperative projects within the scope of IGJ (IGJ (Investment in Growth and Jobs) - ERDF (European Regional Development Fund)) in the current programming period in the

Länder (province/federal state) of Upper Austria, Styria and Tyrol.

- “**SMART Cities**” initiatives are being implemented at present both at the national level as well as at the EU level. There are net-working initiatives at the national level initiated by the Ministry for Transport, Innovation and Technology (e.g. the national networking platform Smart Cities) as well as financial assistance instruments (e.g. Smart City Initiative of the Klimafonds). At the transnational level, we would like to point out the European “Joint Programming Initiative **Urban Europe**” (www.jpi-urbaneurope.eu) whose objective is to systematically investigate urbanization issues in order to integrate new technology achievements with the latest findings from the social sciences, spatial studies and economics. Austria plays a leading role in this initiative.

Although the “Territorial Agenda 2020” is non-binding in nature, it represents the principles of spatial and regional development policy widely accepted in the EU of long-term strategic significance and thus serves as a framework for guidance for European and also the national regional strategic approaches. In this respect, the **Austrian Spatial Development Concept** also makes a reference to the themes of the “Territorial Agenda” (see Chapter 3.3 “Working in a multi-level system”).³

Focus: Urban policy

As a consequence of the concentration and perceived greater competence for finding solutions to social and environmental issues, urban regions are shifting to the centre of attention of the discussion. A complementary process of cooperation between states started in 1998 led to the development of the “Leipzig Charta on Sustainable European Cities” adopted in 2007 and to the “**Pact of Amsterdam**” (2016).

This Pact, which is a joint effort of the European Commission and member states and of the European associations and networks of cities and municipalities, creates the basis of the first “**Urban Agenda for the EU**”, which was agreed for the first time in 2016 by the competent EU Ministers for urban affairs. The

objective of the agenda is, among other things, to contribute to “territorial cohesion by reducing social and economic disparities in urban areas and regions” (European Union 2016, 6). To implement the Agenda, numerous partnerships were created, among others, on the topics of housing, inclusion, urban poverty, air quality, climate adaptation, mobility.

2.2 EU Cohesion Policy and its Spatial Dimension

The spatial dimension of EU cohesion

The approaches and discussions on the **spatial dimension** go back to the 1980s at the **European Commission** (EC). In contrast to the discussion within the scope of the Territorial Agenda, the EC has directly applicable instruments at its disposal, especially within EU Structural Funds (e.g. territorial cooperation) in the discussion it is engaged in. Moreover, the territorial dimension has been part of EU cohesion policy since its reform in 1989 on account of the territorial demarcations defined and the cross-sectoral multi-annual programme planning carried out in partnerships.

Since then, EU cohesion policy has undergone constant **phasewise reforms** that may be summarized

³ The goal for 2018 is to carry out an extensive review of TA2020 and to develop a Territorial Agenda for the time after 2020 (Territorial Agenda post-2020).

CONSEQUENCES: IMPLEMENTATION OF EU COHESION POLICY 2014-2020 IN AUSTRIA

- Ongoing concentration of programmes and actors, and the grouping of Austria's new Länder programmes into one overarching national Programme for Investment in Growth and Job in the current programming period (ERDF + ESF).
- Opening up of financial assistance options for cohesion policy programmes to the entire territory of Austria.
- Greater focus of regional policy programmes on research and innovation as well as for small- and medium-sized enterprises (SME) and the environment.
- Coordination of the ESI Funds under the umbrella of the "Partnership Agreement", which establishes relationships between the European objectives and the Fund programmes.

under the aspects of **concentration, innovation** and **a greater focus on results** that is causing a shift in the paradigm of cohesion policy. The key development trends are set out below:

- There was a shift away from the priority objective of balancing national disparities towards the promotion of development potentials.
- The goal of reducing disparities now only applies to the overall European level. Funding concentrates on regions with the greatest development lag.
- The demarcation of small areas eligible for financial assistance was discontinued in 2007. Thus, the integration of urban areas was reinforced. This comes with a more intense focus on research, development and innovation.
- At the same time, European Territorial Cooperation was declared an explicit objective of cohesion policy and upgraded financially.
- In the past two decades, the orientation on innovation has been moving more and more into the focus of attention of regional policy. Today, regional policy is innovation driven. Although this orientation is based on the conceptual lead of the endogenous factors in a region, it tends to place a greater stress on the innovative and technological capacities of enterprises.
- The inclusion of EU cohesion policy in the architecture of the EU general strategies resulted in a greater vertical coordination (EU and member states) as well as to a horizontal coordination among the EU Funds.
- These have been referred to as the "European Investment and Structural Funds" (ESI) since 2014 and also include the European Agricultural Fund for Rural Development (EAFRD) which was created in 2005.
- These developments must be viewed in the context of the current efforts to increase results-driven bias of cohesion policy.

2.3 Rural Development Policy

Rural development and agricultural policy are very important for spatial and regional development with a view to securing rural regions as living space. **Common Agricultural Policy (CAP)** is a policy area that has become fully integrated into EU Community policy. National agricultural policy relies almost completely on the funds and instruments made available under CAP. Today, CAP has two "pillars". While the first pillar focuses on direct payments to farmers and on a common market regulation for individual agricultural products, the second pillar is targeted at the **development of rural regions**. In Austria, the focus is on the second pillar, and with respect to financial aspects special attention is being given to **ÖPUL (Austrian Programme for Environmentally Compatible Agriculture)**, which is a scheme for the promotion of environmentally-compatible, and extensive farming that protects the natural living space, and to the disbursement of **compensation payments** to farming enterprises in disadvantaged (especially mountainous) rural areas. In this context, the focus is not only on strengthening the competitiveness of farming and forestry enterprises and also of the downstream processing and marketing industries, but moreover the diversification of farming and forestry as well as basic services in rural regions. Parallel to these activities, local action groups are implementing regional development strategies under **LEADER**.

2.4 Role of European Instruments for Austria's Regional Policy

The european structural and investment funds in Austria 2014+

The framework conditions at the European level and their integration into the federal structures in Austria have resulted in the following characteristics of the

RURAL DEVELOPMENT WITHIN EAFRD

Some parts of rural areas in Austria need help in securing the viability of structurally weak farming enterprises and in securing and creating employment opportunities. Therefore, support for the **diversification of farming enterprises** under EAFRD takes place in areas outside of farming. Likewise, a need for action is also perceived for non-farming enterprises and support is provided for the **establishment and development of innovative companies**. Investments in infrastructure for social services and the expansion of broadband are also funded.

The priority areas for the stabilization and ecological advancement of agricultural and forestry enterprises in Austria include:

→ **ÖPUL**: The agricultural and environmental programme ÖPUL 2015 is part of the Austrian Scheme for Rural Development 2014 to 2020 and a key instrument of agricultural policy and regional development in Austria. Twenty-four different measures are offered under ÖPUL that contribute to the protection of natural resources, biodiversity, soil, water and climate.

→ With the participation of almost 80% of enterprises covering around 80% of farming land or 1.85 million hectares, Austria has one of the highest participation rates within the EU. The farmers that participate in ÖPUL receive compensation payments for smaller harvests, for additional work or additional costs incurred because they comply with the additional environmental requirements. At present, almost 24% of agricultural land in Austria (approx. 620,000 ha) is cultivated organically, placing Austria in the top ranks of the EU and in international comparison.

→ **Disadvantaged rural areas**: Cultivated landscapes in the disadvantaged regions, especially in mountainous areas, are dominated by use as farming land. For the long-term preservation of these landscapes, it is important to continue cultivating the land. In regions with difficult production conditions (e.g. steep slopes, high altitudes) farming enterprises in Austria receive compensation payments for having competitive disadvantages due to the climate or topography as compared to farming enterprises in benign locations. In total, so-called disadvantaged areas cover some 80% of Austria's surface area.

European Structural and Investment Funds in Austria at present.

For the first time, cohesion policy funds are being brought together under the umbrella of the European Structural and Investment Funds (ESI Funds) with the funds for rural development and for maritime and fisheries policy. The Partnership Agreement (PA) – in Austria STRAT.AT 2020 – is the strategic framework that forms the link to the EUROPE 2020 objectives and programmes, and is embedded in the fund-specific objectives. In Austria, nine of the thematic objectives defined for the ESI Funds were selected.

With regard to the content of the priorities of the programmes of the Fund, the following aspects are highlighted:

→ The **European Agricultural Fund for Rural Development (EAFRD)** concentrates on rural regions giving financial priority to environmental objectives, spending on investments by enterprises, creation of infrastructure and the diversification of the rural economy.

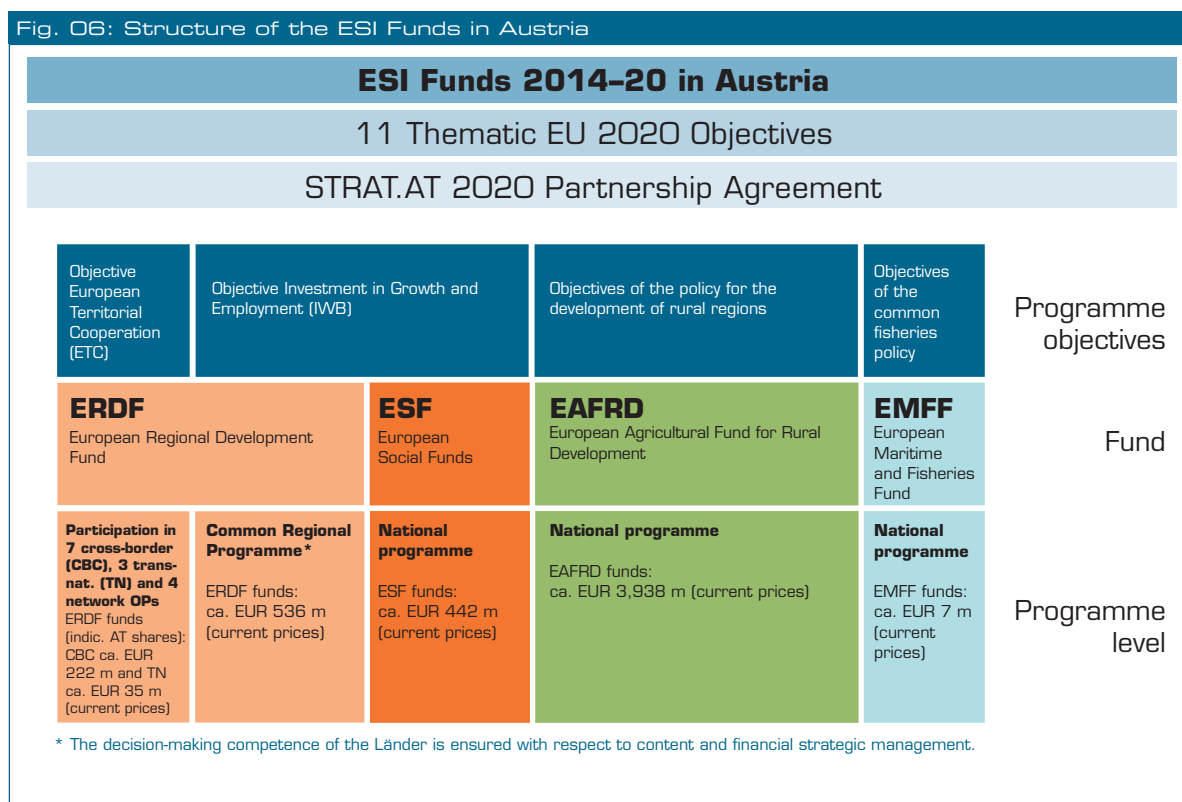
→ The programme **Investment in Growth and Employment/ERDF** focuses on areas with potential and in this context on R&E and innovation, growth and competitiveness of SMEs, and a low carbon economy supplemented by the territorial dimension and urban development.

→ The programme **Investment in Growth and Employment/ESF** places the focus on approaches to social inclusion of groups of persons at risk of exclusion and on the enlargement of the financial assistance approaches in education (education guarantees and offers for groups with educational disadvantages). Moreover, the focus is also on innovative ways of increasing the opportunities of gainful employment for women and older persons.

→ The **European Maritime and Fisheries Fund Programme (EMFF)** is the smallest of the ESI Funds programmes and focuses on fishery and aquaculture.

This results in the following **characteristics** in the implementation of the European Structural and Investment Funds in Austria:

Fig. 06: Structure of the ESI Funds in Austria



Office of the Austrian Conference on Spatial Planning (Österreichische Raumordnungskonferenz ÖROK), October 2014

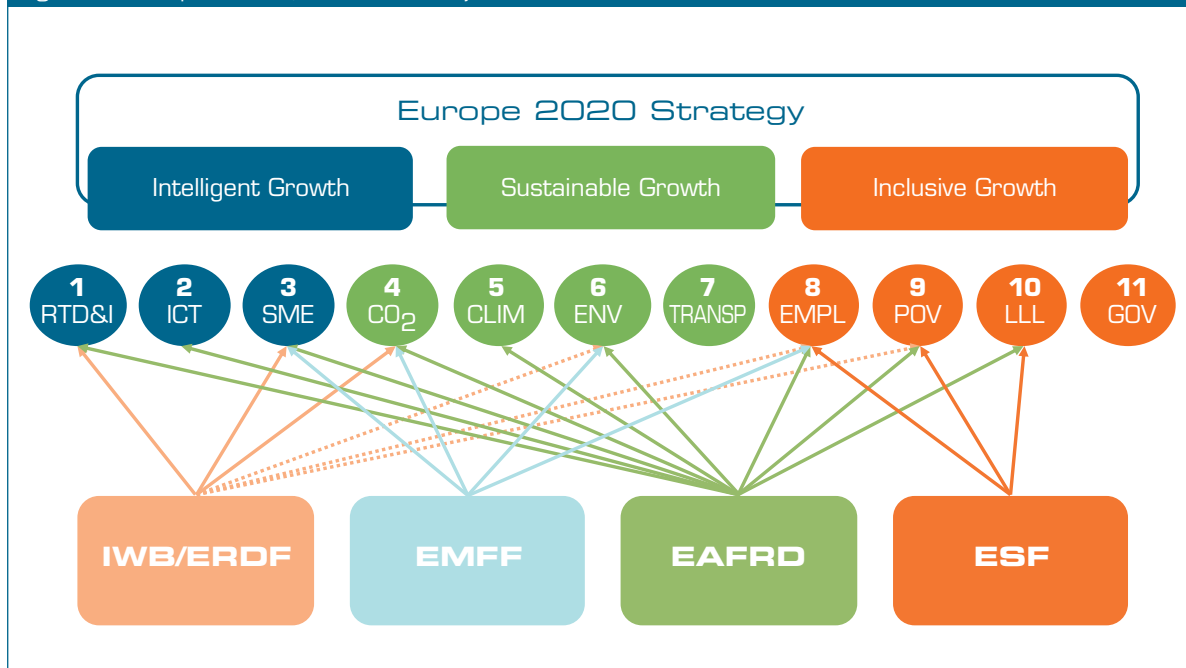
- For the entire period 2014–2020, Austria has an indicative amount at its disposal of approximately EUR 5.18 billion from the **European Structural and Investment Funds** (incl. European Territorial Cooperation), while throughout Europe, the funds earmarked for this purpose are around EUR 469 billion. The system of the shared administration of funds requires the co-financing of the EU funds with national (public or private) funds.
- Some three quarters of the funds are allocated to the **European Agricultural Fund for Rural Development**, with one quarter of the EU funds being used for the objectives of EU cohesion policy. A common agricultural policy is fully integrated into Community policy, and therefore, largely covers national agricultural policy. In contrast, the cohesion policy programmes (ERDF and ESF) represent only a small portion of the funds' use for economic, innovation and labour market policy.
- As a consequence of the increasing requirements of the European programmes, the nine ERDF Länder programmes are being bundled into an Austria-wide regional programme and the establishment of a central managing authority within the ÖROK Office. Therefore, there are currently **four main programmes** with a reach throughout

Tab. 01: 11 Thematic objectives (TO) of the ESI Funds 2014–2020

Intelligent Growth	Sustainable Growth	Inclusive Growth
T.Z.1. Research, techn. development, innovation (RTDI) 2. Information and Communications Technology (ICT) 3. Competitiveness of SME	4. Reduction of CO ₂ emissions (CO ₂) 5. Adaptation to Climate Change (KLIMA) 6. Environmental protection/ Efficient Use of Resources (ENV) 7. Sustainable Transport/Network Infrastructure (TRANSP)	8. Employment and labour force (EMPL) 9. Social inclusion/combating poverty (POV) 10. Education, lifelong learning (LLL) 11. Efficient public administration (GOV)

Presentation by convelop based on the Partnership Agreement and EC (European Commission) 2015

Fig. O7: Europe 2020, Thematic Objectives and ESI Funds in Austria



Partnership Agreement (2017) EC (European Commission) 2015, (IWB= Investment in Growth and Jobs)

Austria under the “ESIF Partnership” that are being implemented by the federal government and the Länder. Additionally, there are the European Territorial Cooperation programmes.

- The ESIF programmes pursue different **spatial priorities**: While the EAFRD programme is focused on agriculture and forestry, and on rural regions, the IGJ/ERDF OP concentrates on regions with potential and regions with a more urban character. This results from the general orientation of the programme on R&D and innovation, and is supplemented by programming highlights for cities and their catchment areas. The themes of the ESF programme address primarily specific target groups and not specific regions. Moreover, the measures to combat poverty are directed mainly at sectoral and not at territorial aspects.

2.5 Transnational and Regional Perspectives under EU Initiatives

The cross-border and transnational perspective is especially important for Austria due to its central location in Central Europe: 93% of the population lives in municipalities that are located at a distance of less than 60 km from the national border. The federal capital, all capitals of the Länder (with the exception of St. Pölten) and most small and mid-sized cities are located in these areas (cf. Pucher et al, 2017). Starting out from traditional cooperation and joint border commissions as well as wider coopera-

tion regions (Danube area, Alpe-Adria region, Europe region Tyrol), particularly within the context of European Territorial Cooperation and the macroregional strategies, a cross-border and broader spatial perspective of development efforts became increasingly important. Thus, Austria participates intensely in the ETC programmes.

European territorial cooperation in EU cohesion policy

With the start of European Territorial Cooperation (ETC) in 1990 (at the time, with the Community initiative INTERREG), the EU adopted the goal of preparing the regions for a Community without internal borders and the structural problems of border regions. With the reform of EU cohesion policy in 2007 and with the inclusion of “Territorial Cohesion” as the third cohesion policy objective, European Territorial Cooperation was upgraded with respect to content and funding.

Three types of programmes are implemented that are very different with respect to objectives, handling and territorial focus:

- **cross-border cooperation** (with the participation of Austria in seven programmes);
- **transnational cooperation** between national, regional and local authorities within larger spatial units (e.g. Alpine Space, Central Europe or Danube Transnational);

Fig. 08: Bilateral ETC Programmes with Austria's participation 2014-2020



→ **interregional/network programme**, i.e. cooperation between regions throughout the entire EU territory: INTERREG EUROPE for the spread of innovative and successful approaches to EU regional policy; ESPON 2020 for European territorial monitoring and spatial research; URBACT thematic networks organized by cities; as well as INTERACT serve to support the managing bodies that manage the cooperation programmes.

Furthermore, the legal instrument of **European Grouping of Territorial Cooperation (EGTC)** created to make territorial cooperation easier with respect to administration, cooperation and financial control (European Union 2006). It serves to carry out and manage cross-border, transnational and/or interregional cooperation measures - regardless of whether they are implemented with or without financial support from the EU.

EU macro-regional strategies

Special significance is attached to “**EU Macro-regional Strategies**”. Macro-regional strategies must be viewed in the light of their external, integration and development policy background. The preliminary strategies (e.g. first Baltic Sea Initiative 1996 or EU Black Sea Initiative) were developed already as an expression of the greater emphasis being given to spa-

tial development policy and the growing disparities within the European Union.

Conceptually, macro-regional strategies refer to an approach that views **regional and development policy in the context of larger geographic areas** and are oriented primarily along thematic strands, but with themes that go beyond the scope of EU regional policy.

A central implementation feature of macro-regional strategies is the so-called principle of the “3 NOs”. This principle states that common development projects are to be implemented a) without new funds to providing financing, b) without new EU laws, and c) without new institutions. The implementation will therefore make optimal use of the synergies between the macro-economic strategies, the relevant EU programmes and the forms of cooperation that are already in place in the region.

To date, four EU-wide macro-regional strategy initiatives have been adopted: for the Baltic Sea region, the Adriatic Ionian region, the Danube region and the Alpine region. Austria participates in the last two of these macro-regional strategy processes. At present, the relevant initiatives are being discussed for the North Sea, for the Carpathian region and for the Atlantic Arc.

Fig. 09: Transnational cooperation areas with the participation of Austria in the programming period 2014-2020



Metis [2017]

EUROPEAN GROUPING OF TERRITORIAL COOPERATION (EGTC)

With EU Regulation 1082/2006 the legal basis was created in 2006 for the establishment of the EGTC. An EGTC is made up of member states, regional and local territorial authorities and/or institutions under public law (on an optional basis).

The legal framework for the establishment of EGTC has been created by the Länder, but not by the federal government to date. In 2011, for example, the Europe region Tyrol-South Tyrol-Trentino was institutionalized in the form of a “European Grouping of Territorial Cooperation” (EGTC).

2.6 Further EU Policy Fields of Relevance for Space & Region

Trans-European Networks (TEN) support the implementation and development of a single market and the improvement of economic and social cohesion in the European Union. The transport network priorities defined in the Regulation governing the Guidelines for Trans-European Transport Networks (TEN-V Guidelines) provide guidance on the creation and expansion of a transportation infrastructure of international significance within the EU. The Regulation differentiates between a “comprehensive network”

which was essentially agreed with the member states (MS) and is to be implemented by 2050, and a high priority “core network” developed by the European Commission and scheduled for completion by 2030 and therefore has priority. Austria is located on three of the defined core corridors of the network with the transport axis Danube, Brenner, Baltic-Adriatic.

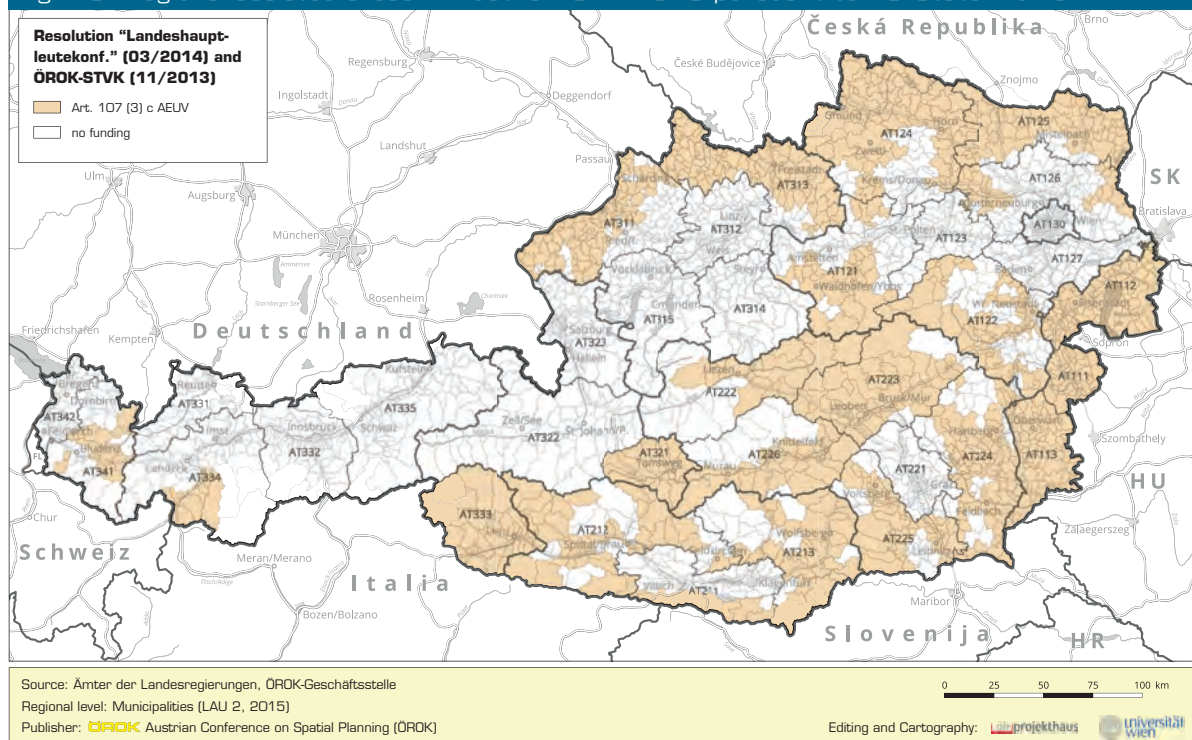
A single EU market without competitive distortions is the objective of the **Community competition rules**. This EU principle also defines the regulatory framework for structural and regional policy. Government financial assistance for certain compa-

MACRO-REGIONAL STRATEGIES IN AUSTRIA

EU Strategy for the Danube Region: Ever since the EU strategy for the Danube region was approved in 2011 by the European Council, Austrian institutions have been working on the implementation of the plan of action. The measures address the eleven priority areas identified. These include mobility, sustainable energy, tourism, environmental protection, knowledge society and cooperation.

EU Strategy for the Alpine Space (EUSALP): After several years of preparation, the Alpine Space Strategy was adopted in June 2016 by the European Council. The strategy focuses on three thematic policy fields (growth & innovation, mobility, environment & energy) as well as on improving governance.

Fig. 10: Regional assisted areas in Austria 2014-2020 pursuant to EU State Aid Law

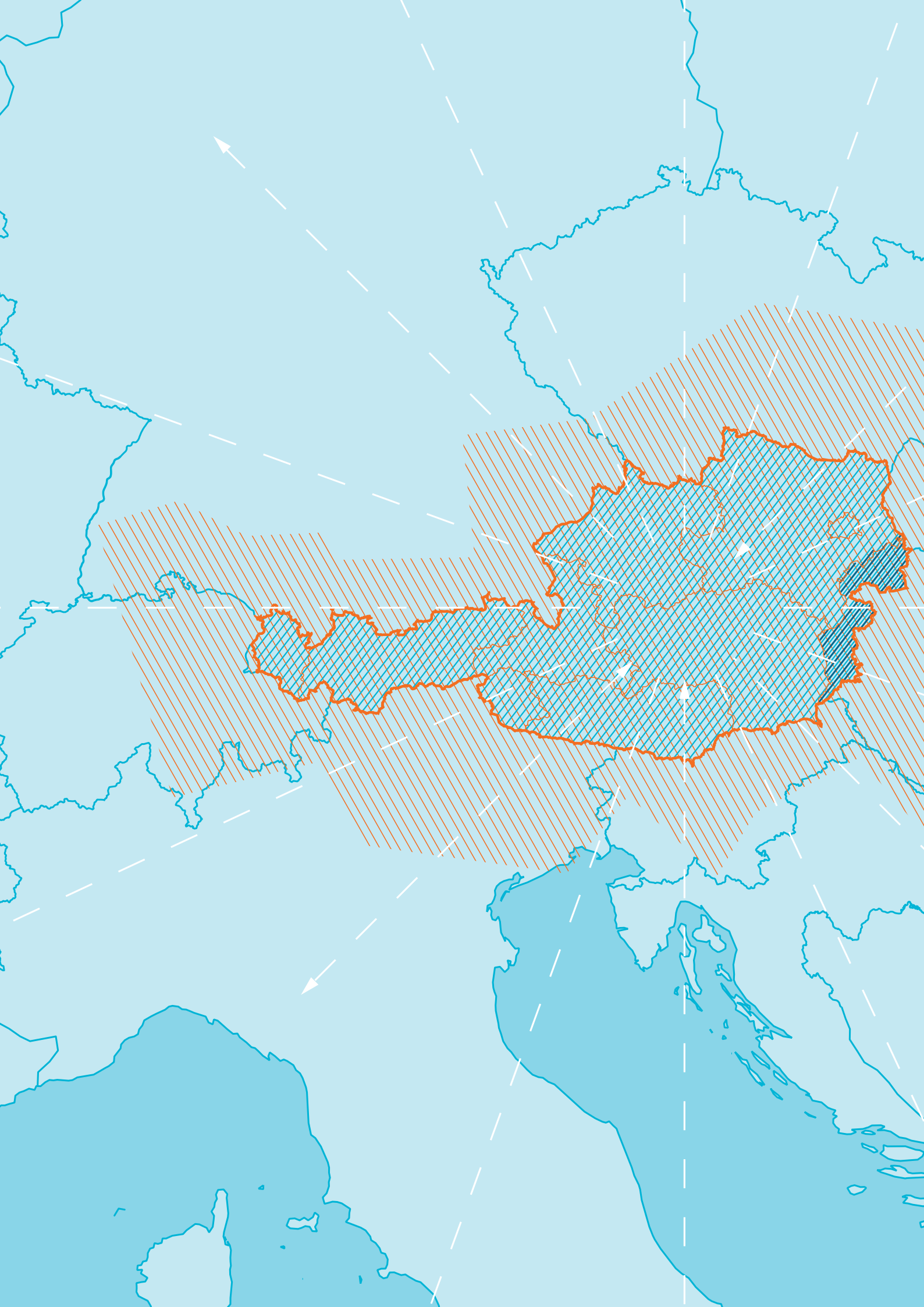


www.oerok-atlas.at

Note: The designation in the legend "no state aid" refers only to the fact that these regions are not part of the "regional state aid map".

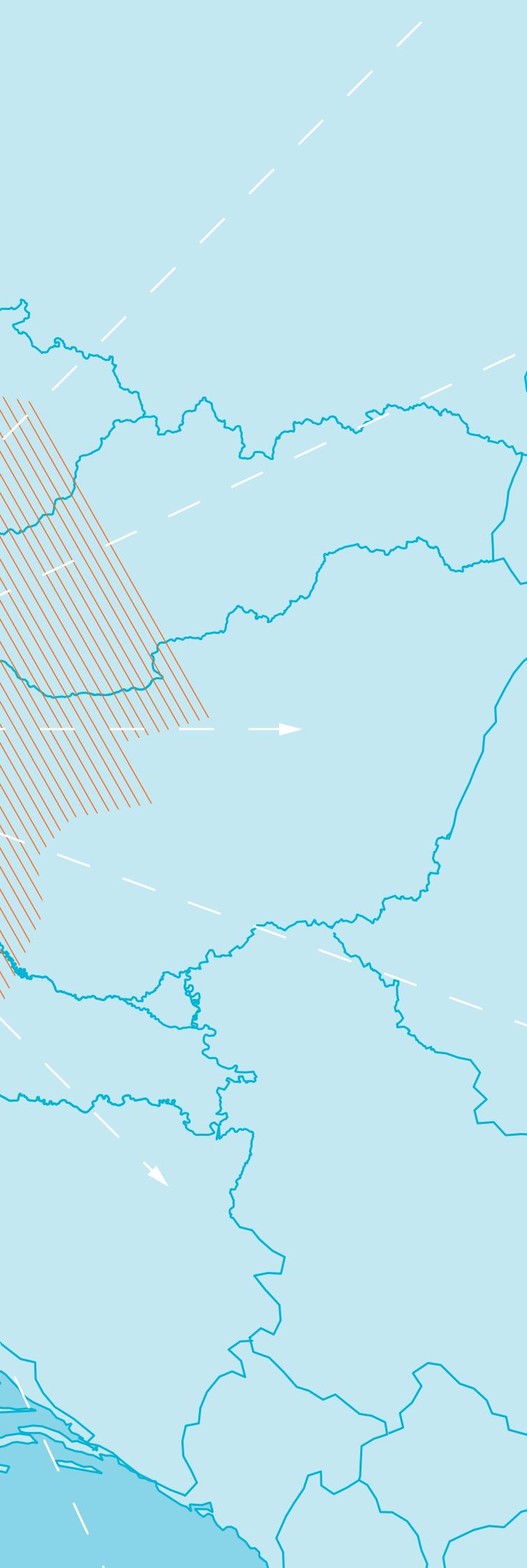
nies or products that lead to a distortion in competition are generally prohibited and can only be approved if they are in the interest of the general public (e.g. research and development, education, environmental protection, small and medium-sized enterprises). In the course of the reform („State Aid Modernisation“) of EU financial assistance legislation, regional

financial aids were adapted that are of special relevance for EU regional policy. The ceilings for maximum state aid intensity for the period 2014 to 2020 is now a uniform 10% for large companies, 20% for medium-sized companies, and 30% for small companies in all Austrian "c" assisted areas pursuant to Article 107 (3).



3

Regional Policy and Development in Austria



3 REGIONAL POLICY AND DEVELOPMENT IN AUSTRIA

■ MARKUS GRUBER AND SIMON POHN-WEIDINGER

The European dimension of spatial and regional policy is closely related with national regional policy. In particular, cohesion policy and policies for the development of rural regions are effective directly at the national level within the scope of the shared administration of funds. EU co-financed programmes play an important role, though not exclusively. Therefore, the focus of the following sections will tend to be on regional policy and development in Austria, and the development trends. In this context, however, references to the ESI Funds will be made in their function as programming instruments where useful.

3.1 Distribution of Areas of Competence

The term “**regional policy**” started to be used in Austria with a very specific definition only relatively late at the beginning of the 1970s. The terms “regional policy” - just like “spatial development” - is **not regulated by law** in Austria.

However, in practice a cooperative system has evolved in Austria since the early 1970s. Instead of an own law, the system of federal states (Länder) relies in this context on **coordination and cooperation** between the policy fields and the territorial authorities. This happens at the different spatial levels of the federal government and Länder, and in the tradition of social partnership.

The coordination required at the federal level between the federal government and the Länder takes place at an informal level. With the Amendment of the Federal Ministries Act 2017 (Bundesministerien-gesetz-Novelle), the coordinating task at the federal level in Austria has been moved from the Federal Chancellery to the **Federal Ministry for Sustainability and Tourism (Bundesministerium für Nachhaltigkeit und Tourismus, BMNT)**.

The **Austrian Conference on Spatial Planning (Österreichische Raumordnungskonferenz, ÖROK)** acts as a platform for the informal cooperation of the federal

government, the Länder, the municipalities, the interest group representatives and the social partners. It achieves a balance for the lacking formal and legal coordination procedures for topics relating to spatial development policy in Austria.

With the so-called **Art. 15a Federal Constitutional Act Agreement (BVG Agreement)**, a formal instrument has been created for cooperation between the federal government and the Länder. Originally used for concrete programmes carried out cooperatively, today it serves to define the roles and the tasks of the federal government and Länder, e.g., in the context of EU cohesion policy.

3.2 Conceptual Development Trends and Milestones

Development of the conceptual approaches: the Austrian way

The first time regional policy was recognized as an explicit policy area, it was related with a paradigmatic transition away from the traditional notions. These approaches focused primarily on creating external impulses (e.g. plant locations, inflows of capital/ know-how, creating infrastructure) as a way to make regional development possible and overcome regional disparities. From the end of the 1970s on, systemic approaches to **endogenous regional policy** were increasingly taken. This discussion was conducted in Austria under the headings of „self-reliant regional development“ and later on as “endogenous renewal”.

The shift in paradigm is based on the knowledge that important **factors** that influence regional development are closely tied to a region: Settlement and infrastructure, skills and specializations of enterprises and employees, and also their relationships with institutional structures. Regional development therefore is based on strengthening the potential that originates in the region itself. Thus, a region becomes central to concrete solutions, while regional policy creates the framework conditions and structures needed.

DEFINITIONS

Regional Policy and its Reach (Strategic Level):

Generally, spatial development covers all policy areas with a territorial impact and coordinates these with a view to their impact on space. The objective is to harmonize the various specialized policies (economics, labour market, transport, culture, agricultural policy, etc.) for a specific area (“space”, “region”) with the objective of supporting quality of life and prosperity in the regions.

Regional policy has been concentrating on the economic and structural development of regions at least since the economic and structural crises of the 1970s and 1980s. It focuses on “...the influence of economic processes by public bodies. The aim is correct the spatial allocations created the market” (cf. Maier et al 2012, 143). Therefore, Regional policy takes place at a spatially superordinate and strategic level.

Promotion of Regional Development (Instruments Level): Promotion of regional development is understood to be the concrete instruments employed at the superordinate level to promote the development of regions. These instruments include information/counselling, financial incentives (e.g. subsidies for investments), infrastructure measures (expansion of the economic infrastructure), and cooperation and regulations. The promotion measures target

enterprises as well as the general population, territorial authorities and institutions.

Regional Development (Use of the Instruments at the Regional Level): Regions and their actors initiate concrete social, economic and cultural processes and activities within the scope of the general framework conditions and using the instruments for promoting regional development that aim to make the best use of a region’s potentials.

Regions and their Structures: The interconnectedness of social, economic and cultural aspects creates networks and relationships for specific topics of spatial relevance, often characterized by spatial boundaries but also by administrative boundaries.

Therefore, in discourse on regional policy the concept of “functional areas” plays an important role. Some of the expressions that feature in this discourse include “core area”, “cross-border or transnational region”, “urban regions in the context of a decentralized concentration”, and other similar terms. However, in the actual planning and development work, the classical political and administrative designations of areas apply (9 Länder, districts) and the statistical system of territorial classification (e.g. NUTS III regions) are of high significance.

As the comprehensive approach of „self-reliant regional development“ and concentrated mainly on rural regions lagging behind in development, with the structural crises of the old industrial regions in the 1980s, the spatial focus increasingly shifted to structurally weak industrial regions and thus had a strong economic bias towards an “**innovation-oriented regional policy**”. This entailed a transition to a stronger economic focus of the regional development approach that was further expanded when EU regional policy was adopted.

“Innovation-oriented regional policy” was subsequently supplemented by concepts for (regional) “**innovation systems**” and the very frequently used **cluster concept** in Austria. This established a **paradigm of networking and cooperation**. Currently, this conceptual approach is being supplemented by the

concept of “**smart specialisation**” which increasingly combines existing strengths with future trends and technologies, and, above all, also highlights the significance of territory for successful innovation strategies (EC 2014).

Goal of achieving a balance replaced by structural policy approach

This created a more realistic perception of the objectives and expectations in regional policy. The Austrian Spatial Development Concept 1991 made a differentiation between the objectives of the classical focus on achieving a balance (“reducing disparities”) to more dynamic structural policy objectives that place an emphasis on the **adaptability** and **mobilisation of endogenous** potentials (ÖREK 1991). Today, the concept of “regional competitiveness” is used

in this sense. It is viewed in the context of resource-efficient and environmentally-compatible regional development.

Integrated view of spatial and regional development

At the latest with the perceptible success achieved in structural renewal in industrial problem areas and the growing problem patterns of out-migration, e.g. from inner Alpine side valleys, increasing mobility and later climate change and the emergence of agglomeration problems in urban areas (e.g. transport, environment) the focus was again placed on more far-reaching **spatial and regional development strategies**. This was accompanied by the greater role played by the Länder and the higher degree of organisation in the regions, e.g. through regional development associations and regional management.

Enlargement of the actors' levels: building competence in the Länder

The cooperative approach to regional policy meant that the Länder were involved from the beginning in the conception and financing of regional policy programmes. Until the 1990s, **cooperative programmes** were implemented jointly by the **federal government and Länder** to promote innovation or designed specifically for regional problem areas. The vehicle for this purpose was the mechanism defined by Article 15a Constitutional Act (contract between federal government and Land).

Access to cohesion and agricultural policy instruments made it possible as of the mid-1990s to substantially increase the funding dedicated to regional policy and to significantly raise the standing of the Länder as regional policy actors. Regional policy, which up to then had been more ad hoc in nature and applied only to parts of regions, became more programmatic and targeted. This supported the roll-out of the regional policy approaches covering entire territories in Austria together with a harmonisation of standards between the Länder and a transfer of information and know-how (cf. Gruber 2009). The cooperative approach was intensified and regional policy professionalized (see also Heintel 2005). With respect EU regional policy, for Austria it meant that policies were more focused on the economic aspects and on innovation.

This process leads to a wider scope of the fields of action, as Länder and regions were strengthened with respect to programming competence, access to resources and in institutional structures. The conse-

quence was a **wider territorial coverage** when **implementing** the instruments of **endogenous regional development** in Austria. This process was accompanied by the following:

- Development was guided more intensely by strategies in the Länder. Triggered not least by the EU programming cycles and the related programming work as well as in connection with a generally overall greater focus on strategy in the interventions, for the first time **economic strategies** were developed to complement the spatial strategies at the Länder and the regional levels. These economic strategies were later developed into research and innovation strategies. Today, the Länder have both spatial development strategies for their regions as well as an innovation-based development strategy ("Concept of Smart Specialisation"). Thus, today there is a comprehensive "strategy architecture" at the Länder and the regional level.
- This process was accompanied by the creation of new modern **agencies** for economic and regional development in the Länder. These include both **regional and economic development agencies** specialized in economic development as well as the regional **development organisations and regional management bodies** that have a comprehensive information, networking and advisory orientation.

Retreat of the federal government from the instruments of innovation-oriented regional policy

Along with the strengthening of the Länder, at the end of the 1990s there was an instrumental change towards a new programming generation that were oriented on structural policy objectives. The new programmes addressed structural problems (e.g. research and economic cooperation) and placed more excellence goals at the focus than regional policy aspects. However, these have territorial impacts, because they support the creation of structures for research and innovation, and are therefore of great interest for the Länder for the implementation of regional innovation strategies. At the same time, the federal government withdrew from the instruments an innovation-oriented regional policy.

The consequence was also the retreat of the federal government from innovation-oriented regional policy. Specifically, regional policy motivated instruments such as the "Regional Infrastructure Aid" were no longer prolonged. As regards the financial assistance schemes for enterprises, the "regional innovation bonus" was discontinued. The ERP programmes

were continued and fine-tuned to growth and innovation with respect to structural policy.

3.3 Status today: “Working in a Multi-level System”

Today, regional policy takes place within a multi-level governance system that integrates the many diverse groups of actors, harmonisation processes, strategies and instruments to promote development from the EU level to the local regional level. In the following sections, the focus is on the status of regional policy at the federal and Länder level, and its implementation in the regions.

The EU and national level provide the conceptual framework

Since Austria’s accession to the EU in 1995, national and regional policy has been embedded and co-determined by the EU and its regional and cohesion policy. At the national level there is a comprehensive set of strategies that serve as guidance. The **Austrian Spatial Development Concept (ÖREK)** as well as the subsequent ÖREK Partnerships include explicit spatial components on themes such as “urban regions” and “smart specialisation”. Many sectoral strategies integrate spatial and regional components, but hardly explicitly.

Platform for discourse and partnerships

Strategic coordination regarding structural policy issues between the federal government and Länder is done for specific themes at information and exchange forums within the framework of the **Austrian Conference on Spatial Planning** as well as within the

ÖREK Partnerships for implementation. With respect to innovation policy issues, coordination is furthermore achieved by the federal bodies and the Länder within forums such as the “Bundesländerdialog” (Länder Dialogue), which is an established platform for the exchange of information between the federal government and the Länder in the areas of science and research, enlarged by a group of stakeholder organisations. There are numerous sectoral platforms regarding the exchange of information and the mutual involvement in strategy processes.

Spatial and regional development in the Länder

Today, the Länder have a broad architecture for spatial, sectoral and economic development strategies at their level. The planning regulation documents contain either development policy strategies and/or are supplemented by development strategies that serve as guidelines (*see Chapter 7 “Planning Instruments”*).

Additionally, the Länder have **economic and innovation policy schemes and strategies for sectors**, e.g. tourism and strategy documents that address the challenges to society (e.g. climate and energy strategy for Styria 2030, diversity and integration strategy, and mobility and transport schemes). These strategies are evaluated and updated regularly. This ultimately creates a “strategic architecture” for **spatial and regional development**.

As regards the institutions, there are a number of regional development agencies in the Länder who are responsible for supporting the strategies in addition to the competent authorities of the Länder.

AUSTRIAN SPATIAL DEVELOPMENT CONCEPT - ÖREK

The current Austrian Spatial Development Concept aims for “competitiveness”, “solidarity” and “sustainability” and pursues the development of compact and polycentric structures with functional relationships and powerful axes that interact to advance the specific potentials of a region. The plan of action rests on four pillars:

- Regional and National Competitiveness
- Social Diversity and Solidarity
- Climate Change, Adaptation and Resource Efficiency
- Cooperative and efficient structures for action

It follows up on the European Territorial Agenda and serves as guidance and orientation for the federal government, Länder, regions and municipalities.

Implementation is supported by a series of so-called “ÖREK Partnerships” which are assessed as highly useful by the actors with respect to the achievement of a common understanding and concrete applications in political and legal decision-making processes. The outcomes are often “ÖROK recommendations” on specific themes.

Comprehensive spatial and regional development in the Länder

Territorial development is oriented mainly on the development of **cross-sectoral, regional solutions** and acts as trigger for the regionalisation of sector policy.

In this context, regional policy discourse focuses especially on **topics of territorial development** addressing themes extending beyond just the economic aspects in the regions:

- The social challenges of **demographic change** and **climate change**, and their economic implications for the regions;
- The significance of the **processes of out-migration** from regions with the related **infrastructure management**, which are also of significance in the rapidly growing urban areas - but through the opposite movements - and the scarcity problems created in the agglomerations by these trends.
- The themes of **migration** and **integration** in the regions.
- **Social services** also in the context of the organisation of basic services.

- The themes relating to **cooperation between cities and their catchment areas** as well as **inter-communal cooperation** in general.

In this manner, social issues are again being addressed with their economic implications for regional development and the challenges facing the various types of regions. One important instrument for conceptual work, pilot projects and capacity building exists in the cooperation programmes of European Territorial Cooperation.

Regional policy instruments in the Länder

The main instruments used include:

- Forums for **coordinating policies among the Länder** in line with the Land and regional strategies.
- The creation of advisory and activation structures in the Länder and/or regions (e.g. organisations that operated throughout the entire Land such as NÖ.Regional.GmbH, regional management organisation Oberösterreich and regional management organisation Burgenland) or that operated at the regional level (e.g. regional management organisations for Styria, Tyrol).

Tab. 02: Strategy concepts of the Länder

	Spatial Development Strategies	Sectoral Development Strategies, Smart Specialisation Strategies (Selection)
Burgenland	Entwicklungsstrategie Burgenland 2020, Landesraumordnungsplan, Entwicklungsprogramm 2011	FTI-Strategie Burgenland 2025 Tourismusstrategie 2022+
Carinthia	Entwicklungsprogramme für das gesamte Landesgebiet	Wirtschaftsstrategie für Kärnten 2013–2020 FTI-Strategie Kärnten 2020 Zukunft durch Innovation
Lower Austria	NÖ Landesentwicklungskonzept 2004	Wirtschafts- bzw. Tourismusstrategie NÖ 2020 FTI-Strategie und FTI-Programm NÖ Digitalisierungsstrategie NÖ
Upper Austria	Landesraumordnungsprogramm 2017, Landesentwicklungsprogramm (in Entwicklung)	Strategisches Wirtschafts- und Forschungsprogramm „Innovatives OÖ 2020“ Landes-Tourismusstrategie 2022
Salzburg	Landesentwicklungsprogramm 2003	Wissenschafts- und Innovationsstrategie Salzburg 2025, Strategieplan Tourismus Salzburg 2020
Styria	Landesentwicklungsprogramm 2009, Landesentwicklungsleitbild	Wirtschafts- und Tourismusstrategie 2025 Forschungsstrategie Steiermark 2020
Tyrol	Raumordnungsprogramme sowie Zukunftsraum Tirol 2011	Tiroler Forschungs- u. Innovationsstrategie Tourismusstrategie „Der Tiroler Weg 2021“
Vorarlberg	Landesraumpläne f. d. gesamte Landesgebiet, Raumbild für Vorarlberg (in Erarbeitung)	Wissenschafts- und Forschungsstrategie Vorarlberg 2020 Wirtschaftsleitbild & Tourismusleitbild Vorarlberg
Vienna	Stadtentwicklungsplan (STEP)	Smart City Wien – Rahmenstrategie Wiener FTI-Strategie – Innovatives Wien 2020

own presentation, envelop

Tab. 03: Regional Development Agencies of the Länder (Selection)

	Agencies	Regional Development Agencies
Burgenland	Wirtschaft Burgenland GmbH (WiBuG), FTI Burgenland GmbH	Regionalmanagement Burgenland
Carinthia	Kärntner Wirtschaftsförderungsfonds (KWF), Kärntner Betriebsansiedlung- und Beteiligungs-GesmbH (BABEG)	Regional management organisations in the regions
Lower Austria	ecoplus Niederösterreichs Wirtschafts- agentur GmbH, Agenturen im Bereich Finanzierung und Beteiligungen	NÖ.Regional.GmbH
Upper Austria	Business Upper Austria – Wirtschaftsagentur	Regionalmanagement Oberösterreich GmbH
Salzburg	Innovations- und Technologietransfer- Gesellschaft mbH (ITG) Salzburg	Alliances and associations in the regions
Styria	Steirische Wirtschaftsförderung- gesellschaft mbH (SFG)	Regional management organisations in the large regions of Styria
Tyrol	Standortagentur Tirol, geplant: Landes- koordinationsstelle für Forschung und Innovation	Regional management associations at the regional level
Vorarlberg	Wirtschaftsstandort Vorarlberg (WISTO) GmbH	Land Office of Vorarlberg for Future Affairs Societies and associations in the regions
Vienna	Wirtschaftsagentur Wien	Local support offices and district management offices

own presentation, convelop

→ Financial assistance instruments that are oriented mainly on regional **development processes** such as **pilot, leading and impulse projects** (e.g. regional financial assistance schemes of the Land Niederösterreich).

The growing focus of the European Funds on sectoral investment strategies in conjunction with more and more demanding administrative requirements has resulted in a decline in innovation capacity of the EU programmes in Austria over the EU programming periods. Therefore, the tendency in the past few years has been towards regional policy programmes with only national funding that are more suitable for initiating complex cooperation projects and pilot projects designed for the specific territorial problems (e.g. Styria under the Regional Development Act 2017, Tyrol for development programmes in regions with specific problems (e.g. Osttirol-Iseltal and Pitztal) and Lower Austria within the schemes for “promoting regionalisation” of the Land government and the newly established NÖ.Regional.GmbH).

Economic and location development: Concentration of the federal government on national structural policy

In the area of regional policies focused on innovation and economic development the federal government and the Länder share the work. The federal government concentrates largely on the structural policy instruments applied throughout Austria. Therefore, there is **no longer an innovation-oriented national regional policy**, but rather a **national structural policy**. The national structural policy aims to remedy structural problems such as cooperation between science and business, and also creates organisational solutions in the Länder.

We want to highlight the efforts being made to give more consideration to **universities and colleges as leading regional institutions**⁴ for location development. Based on performance agreements and the General Austrian University Development Plan 2016 to 2021 (Federal Ministry of Science, Research and Economy 2015 (BMWF)), universities and colleges are required to coordinate their activities to support the development of competitive knowledge-based

4 The term “leading institutions” is an intentional analogy to the concept established in Austria of “leading companies” for market leaders in their industries who are aware of their responsibility for creating added value and employment at their locations.

STRUCTURAL FINANCIAL ASSISTANCE PROGRAMMES OF THE FEDERAL GOVERNMENT

The federal government focuses on national structural policy goals such as cooperation between science and business or networking and start-ups. These usually competitive programme (call procedures) have some components of spatial relevance and are therefore relevant from a regional policy perspective. As an example, we would like to mention the COMET Programme which has been in place for two decades and promotes cooperative research through the creation of own R&D competence centres.

Programmes in the area of “innovation & cooperation” aim to stimulate the innovation activities of SMEs or to strengthen the RTI structures of R&D facilities and institutions of colleges and universities. ‘Founders programmes’ (e.g. AplusB scale up) provide support to new business founders at start-up centres for the science fields. The federal programmes create important stimuli for the Länder for the development of the respective regional innovation systems and specialisation structures, and for this reason, implementation is usually with the financial participation of the Länder.

business locations and to proactively make use of their potential as leading regional institutions. In the meaning of their “3rd tasks”, universities are to assume responsibility for the regional and social transfer tasks.

With respect to **financial aid for enterprises** (e.g. ERP programmes), the instruments of structural policy were refined to aim for growth and innovation in the past. The regional policy dimension is introduced to the ERP programmes by linking these to the national regional assisted areas that receive EU government aid, the frequent the joint financing by the federal government and Länder, and the entailing closer coordination.

The Länder integrate the federal government’s structural policy and use their own instruments for business location development

These instruments of the federal government are considered and applied by the Länder for their strategies for “smart specialisation” and their regional innovation systems. The structures created by the federal programmes (which are oriented on excellence and do not pursue and regional policy aspects) are supplemented in order to improve their inclusion in existing business location systems (e.g. in cooperation with universities through endowed professorships on themes relating to the location’s areas of focus).

Furthermore, the **Länder employ independent instruments for innovation and the promotion of locations** that are designed for the development of business locations (infrastructure, business parks) and also for forms of cooperation and networking (e.g. within clusters) that serve to promote and spread

new technologies or provide financial aid for corporate spending and innovation within the scope of EU financial aid law. Financial aid for businesses is often implemented by providing a top-up funding for federal instruments. At the Länder level, co-financing by the Fund for Regional Development constitutes a significant share of the funding.

Labour market policy and the regional dimension

Labour market policy in Austria traditionally has a strong **regional dimension**. The organisational structure at the Austrian Employment Office (AMS), which is responsible for policy implementation through the federal, Länder and regional offices, follows the logic of multi-level management. In the past, the European Social Funds (ESF) made innovations possible such as preventive labour market policy and also the enlargement of the group of labour market policy actors especially by involving the Länder (federal state, province). The management of the use of the funds as well as the concrete definition of the measures is therefore based on the needs of the Länder and the regions – in addition to the general objectives.

Regional levels (NUTS III level)

Regional development principles and strategies are in place for the entire country

Regional development in the regions is based – for which the NUTS III level is often used as spatial orientation framework – largely on the regional development principles and strategies, that were developed in a collaborative process. These are usually supplements to the planning documents of spatial planning,

LABOUR MARKET POLICY

As regards active labour market policy, AMS acts as the central implementing body: It comprises a federal organisation and includes nine Länder organisations and 98 regional organisations. The cooperative approach ensures that the social partners are involved at all levels and are able to play a key role in designing labour market policy at every organisational level.

While the overarching horizontal objectives, principles and programmes of active labour market policy are formulated by the federal government (e.g. reintegration aid), the Länder and

regions play a key role in adapting the national initiatives to the needs of the regions. For example, qualification measures are adapted to the regional needs and regionally-oriented instruments deployed (e.g. labour foundations, qualification measures for employed persons, employment initiatives with the involvement of the municipalities). Moreover, cooperation usually takes place with competent bodies of the Länder thus enlarging the group of actors of regional labour market policy and guaranteeing harmonization with regional needs.

but nonetheless serve as guidance. At the core is the “development perspective” of the region. The development principles are normally designed to cover several sectors and topics, and are therefore, much broader than the sectoral strategies at the Länder and federal level. They are a framework of reference for the regional development organisations, and for the Länder they serve as guidelines. The central element are the integrated development strategies. They form the strategic basis for regional spatial planning programmes, but differ with respect to these, because in contrast to the spatial planning programmes no policy regulations are defined (*see Chapter 7 “Planning Instruments”*).

Regional development organisations

In all regions, there are regional development organisations that are established either at the Land level or as regional development associations (so-called regional management organisations). The tasks of these associations include mobilisation and providing advisory services to project organisers, facilitating the transfer of information and acting as moderators for regional stakeholders.

It is ultimately the responsibility of these organisations - on the basis of their regional development strategies - to make use of the instruments of regional development aid, for example, LEADER or European Territorial Cooperation instruments and also national instruments.

Results-driven regional policy

These developments must also be seen in the context of the ongoing efforts to intensify the orientation on results in regional policy and regional development.

Relevant methods to promoting results-driven policies are introduced, tested and further developed on an ongoing basis. The structures and organisations of regional development are continuously being developed, thus creating new solutions and models.

3.4 Challenges for Regional Policy

As a federal state, Austria has good **starting conditions** for **integrated territorial development**. The size of the Länder seems to be a suitable spatial co-ordination level for the use of instruments to promote development. Austria took a territorial approach to policy development early on. This can be seen in the development schemes from the end of the 1980s that were based on the experience of endogenous renewal. As of the 1990s, the Länder started drafting their own development strategies. This development was also encouraged by the EU programming cycles and the related programmatic work as well as by the generally more strategic orientation of the interventions. These Land strategies take account of the overarching EU and national policies and specify regional strengths. Form, design, planning period and content are guided by the regional situation and circumstances.

The differentiation of the various actors and a more proactive strategic role of the Länder as well as a higher degree of organisation in the regions has resulted today in a multi-level system. An orientation framework regarding strategy and guiding principles (e.g. ÖREK) exists at the national level. A financial framework is provided through the EU and national programmes that is deployed with the participation of the Länder or is tapped by them within the scope of their regional development strategies.

LOCAL DEVELOPMENT WITHIN THE FRAMEWORK OF THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS

The LEADER programme implemented within the scope of **rural development policy** is an important instrument for strengthening local governance. The participation of the local population and locally anchored decision-making competence are supportive of regional autonomy. The bottom-up processes help us to recognize local issues and the opportunities to make the region more attractive as a place of employment, business, recreation and as a living space. Professional management structures ensure the implementation of the local development strategies. Currently, 77 local action groups (LAG) work in the regions in which more than 4.5 million people live, i.e., more than half the of the Austrian population.

CLLD – Community-Led Local Development:
The CLLD multi-fund model is understood as an

enlargement of the LEADER approach taken by the local action groups and is being tested as a pilot project in Austria in the current ESI Funds period in Tyrol and in Carinthia. CLLD is being implemented operationally in Tyrol in conjunction with IGJ/ERDF. The combination of CLLD with the bilateral ETC programme between Italy and Austria is being implemented in both Carinthia and also in Tyrol. In the context of the development of functional spaces, new approaches to territorial development are being tested.

Within the scope of the participation processes, local and regional actors, in particular, companies are being involved more broadly in territorial development. In this manner, a contribution to the preservation of existing jobs and the creation of new high-quality jobs is being made.

REGIONAL DEVELOPMENT ACT IN STYRIA

In November 2017, a Regional Development Act was adopted in Styria. One of the objectives of this Act is to enlarge the scope for action of the regions and their accountability. This is achieved by providing a basic financing for regional structures and the funding of innovative, across sectors and of forward-thinking projects. In total, some 12 million euro were made available for regional development projects. Every region decides on its own – in accordance with the criteria defined by law – which regional projects of significance are to be supported. Regional associations are set for the organisation. These entities with experts for regional policy are responsible for the strategic management of all development measures. Regional development companies must be set up for the operational implementa-

tion. The law also stipulates that the relationship between the regional development strategies and those of the Land must be reviewed. The aim is to improve the strategic coordination between Land and the regions as well as ongoing project coordination. This results in the following “Architecture”:

- Land development strategy as a framework for guidance for the work in large regions.
- Large regions with a regional management board and office (regional management entity)
- Development guidelines and annual work programmes
- Funds managed by the regions (Land funds and regional funds)

Link: www.landesentwicklung.steiermark.at/cms/ziel/142543756/DE/

As Austria is a federal state, a cooperative system is in place, which, instead of separate legislation relies on **coordination and cooperation** in the policy fields among the territorial authorities, and also among the different territorial levels of the federal government and the Länder with the participation of the system of social partnership.

With the policy of “endogenous renewal” a concept was introduced with a contextual focus on Austria’s situation and which is applied today throughout almost the entire country. While regional policy used to be spatially defined by “demarcating problem areas”, today it has developed into a **regional policy for an entire territory** based on the mobilization of existing,

NÖ.REGIONAL.GMBH: BUNDLING AND COORDINATION OF REGIONAL DEVELOPMENT IN LOWER AUSTRIA

NÖ.Regional.GmbH started operating in the year 2015. This effectively reorganized and bundled regional development themes in Lower Austria. The main task of NÖ.Regional.GmbH is to implement the so-called strategies for “principal regions” in Lower Austria.

NÖ.Regional.GmbH acts as the central coordination and support partner for municipalities, associations and small regions.

In this function, the agency cooperates with three further organisations of the NÖ Land government from the fields of business (ecoplus), culture (KulturRegion.Niederösterreich) and energy/environment (eNu), with the areas of competence being clearly separated.

Link: www.noeregional.at

endogenous potentials and using these productively in a forward-looking manner and taking environmental and resource aspects into account.

With respect to the more “economy-oriented regional development” at the national level, a **structural policy** is pursued that develops a spatial impact, but does not pursue any regional policy objectives. The structures that emerge are addressed – according to the spatial vicinity and the information advantages this creates – by the **Länder** and their regional development agencies, and are used within the scope of their strategies for “smart specialisation”.

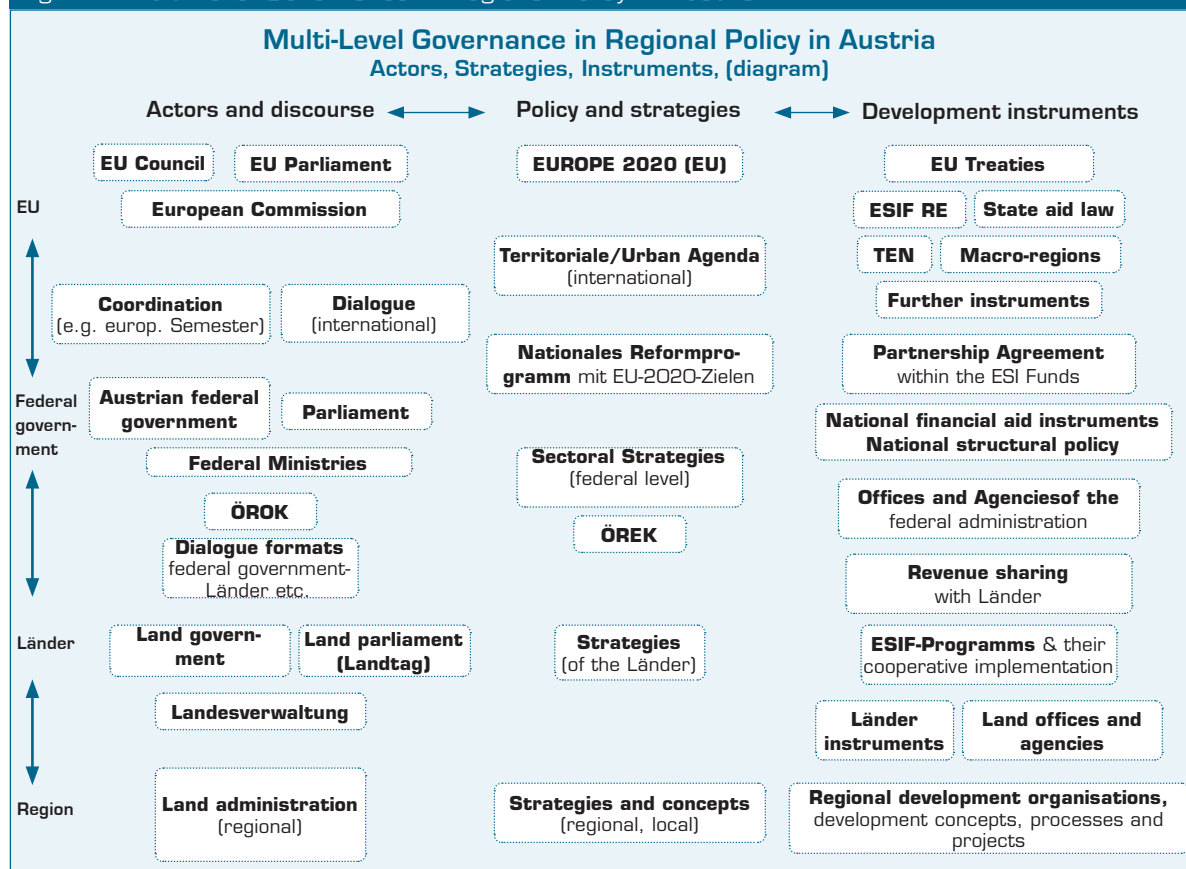
Therefore, today only a very limited classical “regional policy” exists – in the sense of taking measures to counteract trends in structurally disadvantaged regions – but rather financial assistance is made available for development in all types of regions. With the support of development organisations, a (regional) policy mix is now used to mobilise potentials and to counteract problematic issues. Today, this multi-level governance system is the “policy framework for financial assistance for regional development in Austria”.

However, the Austrian approach to regional policy which is traditionally based on cooperation and coordination also creates a number of **challenges** with its multi-level management system.

- Communication and coordination within the multi-level system that enables a more effective focus of instruments at the territorial level.
- Overcoming borders, especially within Austria: between the Länder and between cities and their catchment areas.
- Greater consideration of social challenges in regional economic development and viewing these as an opportunity for innovation for the economy and society.
- (Re-)defining the role of EU cohesion policy instruments in regional and labour market policy so as to create new impulses and encourage innovation.

This is the backdrop before which we must view the discussion of EU programming for the post 2020 period as well as the further development of Austrian regional policy and spatial development policies.

Fig. 11: Multi-Level Governance in Regional Policy in Austria



convelop, own presentation. The chart above shows actors, strategies and instruments at the different administrative levels (EU, federal level, Länder, regions) for regional policy in Austria.



4

Concepts and Objectives of Spatial Planning

4 CONCEPTS AND OBJECTIVES OF SPATIAL PLANNING

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

4.1 Spatial Planning

Generally, “**spatial planning**” refers to the entirety of measures and activities of public authorities used to shape the **development of a territory** based on political goals.

In German terms used in Austria, there is an additional differentiation between the terms “Raumordnung” and “Raumplanung”. “Raumordnung” refers to strategic planning (e.g. by the Länder), while “Raumplanung” refers to the concrete execution of planning activities, for example, by the municipalities. Moreover, in Austria there is no uniform use of the terms by all actors. Thus, ÖROK also points out in a note in connection with the distribution of areas of competence in spatial planning “...that the concepts of spatial planning *Raumordnung* and *Raumplanung* are used synonymously in Austria in general.” (ÖROK, 2015. S 103, FN 1)

Therefore, a generally valid legal definition for all laws and implementing levels does not exist in Austria. In the laws passed by the Länder as law-making bodies, the term “Raumplanung” (Vorarlberg, Burgenland) as well as the term “Raumordnung” (Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol) are used to designate spatial planning. Furthermore, in Carinthia, local spatial development is defined in a separate **Municipal Development Act** and Part 1 of the Building Code of Vienna – long name: Vienna Urban Development, Urban Planning and Construction Act – refers to “**urban planning**”. However, it is pointed out that the divergent uses of the terms “Raumplanung”, “Raumordnung” and “urban planning” (Stadtplanung) by the lawmakers of the Länder do not necessarily mean that different goals are being pursued by the regulations.

(Note: The introduction to this Chapter was revised in the English version and is slightly different from the German version, which discusses the various terms at this point. The English version of the report uses the term “spatial planning” as the translation for the terms “*Raumordnung*” and “*Raumplanung*”).

However, it is pointed out that the divergent use of the concepts of “Raumplanung” and “*Raumordnung*” by the lawmakers of the different Länder does not necessarily mean that different goals are being pursued by the regulations.

In **planning law**, however, the following conceptual differentiations are made with references to “spatial planning” in the various different specialist areas:

- **Nominal spatial planning** law comprises all legal instruments, measures and procedures specifically mentioned in the spatial planning laws and/or which regulate regional and local spatial planning by the Länder.
- **Functional spatial planning law** consists of the legal norms that address spatial factors such as soil, air, water and the regulations that govern their use and application. A number of legal aspects are of relevance for steering settlement development. Functional spatial planning law is the competence of both the federal government and of the Länder.

The term “**spatial development**” has been of minor significance (up to now) in public law – unlike its standing in expert discourse on planning. Spatial development (“*Raumentwicklung*”) is usually used in connection with strategic and conceptual planning instruments (e.g. development schemes), with the term “development” indicating the stronger influencing and dynamic nature of the term, revealing a significance that goes beyond just regulatory tasks. With the entry into force of the Styrian **Land and Regional Development Act (Landes- und Regionalentwicklungsgesetz)** on 1 January 2018, for the first time in Austria the tasks of regional development are defined in a separate law. Regional development is understood to mean strategies, programmes and projects that support the development of a region based on the regional conditions and by coordinating the measures to meet the specific goals.

To accomplish the planning tasks, the territorial authorities (federal government, Länder and mu-

nicipalities) have various **planning instruments** at their disposal. In this context, the term “planning instrument” is not used or defined uniformly either. In this case, the concept is understood mainly as referring to regulatory and development policy measures that contribute to the realization and attainment of society’s objectives with respect to the use of space. A distinction between **sovereign** and **private economy measure** is common practice.

4.2 Objectives and Principles of Spatial Planning

Spatial planning is done by different **planning bodies** within the scope of the tasks assigned with respect to spatial planning. Spatial planning that focuses on the steering of settlement development in the widest sense of the word is not an independent and autonomous administration field, but concerns various expert areas (agriculture and forestry, water management, soil protection, business settlement, technical and social infrastructure, etc.), thereby necessitating coordination mechanisms and cooperative modes of work.

Spatial planning must deal with **social and political aspirations** and expectations, and should contribute

to a balanced result when achieving public interest objectives. The key features in this context are:

→ Reference to the future development

Spatial planning compares the current status with the status desired by society; it aims to show the perspectives and guide future developments, and to prepare and reach decisions of relevance for spatial planning.

→ Planning levels and spatial reference

Spatial planning refers to the different spatial planning levels, with the planning goals and measures having an reference to spatial development.

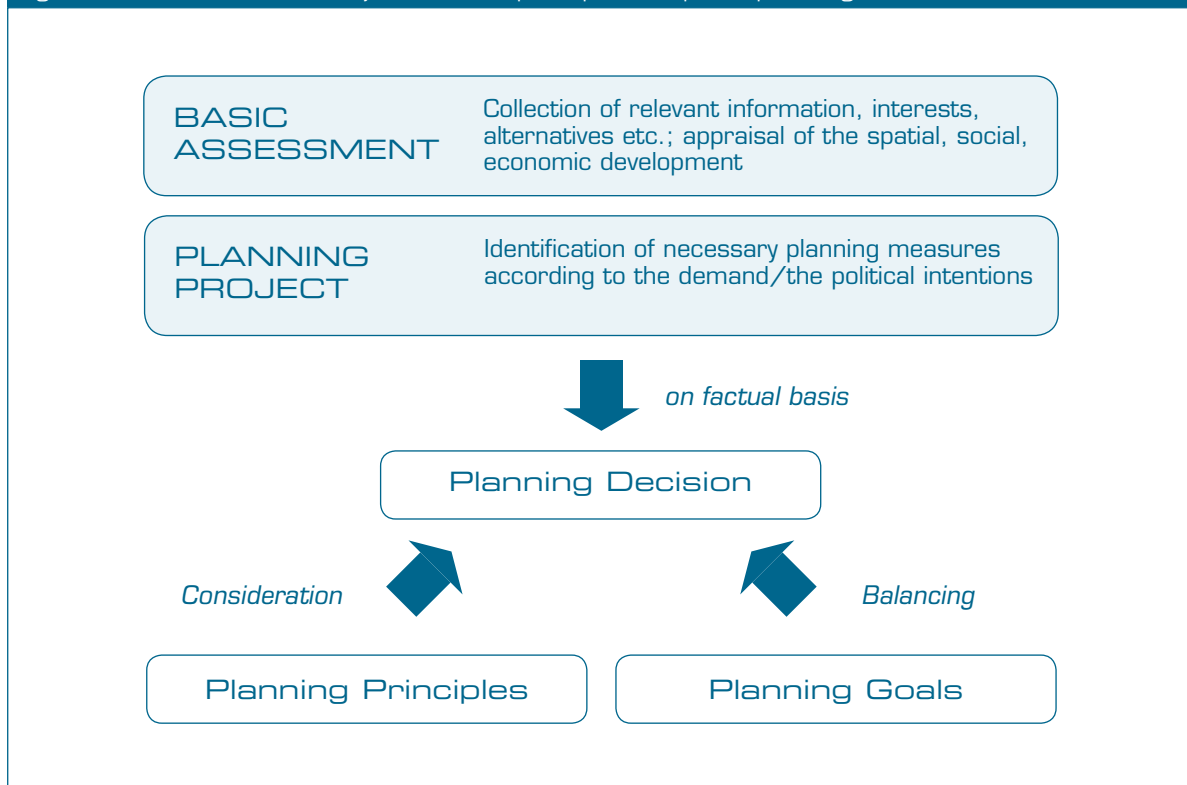
→ Coordination and the common good

Spatial planning brings together many different interests; it defines priorities but usually does not maximize one objective, but rather strives to coordinate and achieve a balance of the interests concerned; mainly, it pursues the interests of the public which generally carry greater weight in planning decisions than individual interests.

→ Informing the public and participation

Spatial planning is not an isolated activity of the competent planning bodies, but a public service task that relies on the participation of the public; participative planning often goes far beyond just providing information and granting the right to state an opinion.

Fig. 12: Consideration of objectives and principles in spatial planning



The overarching objectives and principles are the basis for planning decisions in spatial planning. Spatial planning makes use of the principle of **final determination**. Planning standards are by nature only final, which means they are defined in respect to certain planning goals to be attained. Therefore, on the one hand, the target system and the legal requirements governing the preparation of the basis for decisions are very important. And on the other, well-founded reasons arrived at in a verifiable process have to be given for the planning decisions themselves.

The spatial planning laws of the Länder define planning principles and objectives which are usually defined in more concrete terms in the regional and local (strategic) planning measures. In this context, the difference between principles and objectives must be stressed, although not all spatial planning laws recognize this differentiation. The **principles** must in any case always be considered in planning decisions and there is no room for discretion. However, there are conflicts of interests in the far-reaching **planning objectives** which means that not all objectives can be attained at the same time and to the same extent. The competent planning bodies must define priorities without completely losing sight of the other objectives. The **deliberations** regarding the defined planning objectives give due thought to public interests and the interests of the planning bodies based on the facts.

The Länder define different **principles for regional planning (überörtliche Raumplanung) and local spatial planning (örtliche Raumplanung)** that may be grouped into the categories set out below.

- **Hierarchical principles:** These principles are generally valid and clarify which existing requirements and basic guidelines that apply at the various planning levels:
 - Priority of regional interests over local interests, and
 - consideration of plans by the federal government.
- **Principle of public interests:** The priority of the common good and public interests over individual interests is explicitly defined.
- **Territorial principles:** These are principles that make statements on the organisation of space such as the order of the entire area and its subareas while taking existing structures and functions into account.
- **Social and economic principles:** These cover several social concerns.
 - Consideration must be given to future generations,

- Active land policy of the municipalities for affordable housing and building land for commercial use,
- Higher consideration to the different effects of planning on women and men, on children and youths etc.

→ **Principles of content:** These define the fundamental principles for planning decisions that must be considered in any case.

- Avoidance of conflicts of use,
- Take guidance for settlement development from settlement borders and existing infrastructure; inwards settlement development
- Settlement development primarily for the creation of principle places of residence,
- Sustainable use and economical use of land,
- Consideration of environmental protection aspects.

Apart from the principles, there are **extensive catalogues of planning objectives** that are grouped in various ways in spatial planning laws:

- Regional and local spatial planning objectives,
- General guidelines and special guidelines
- Objectives and further objectives,
- Objectives for zoning and land development plans

The list of spatial planning objectives that were passed into law highlights the key **planning concerns** and the various aspects relating to the economy, agriculture and forestry, natural and cultural assets, social matters etc.

→ **Livelihood/security:**

- Protecting/maintaining livelihood
- Equal living conditions
- Protection against hazards (especially natural hazards)
- Preservation of unique cultural characteristics
- Protection of farming land

→ **Natural assets/environment:**

- Securing functioning natural assets
- Nature protection; environmental protection
- Efficient use of resources
- Maintenance of typical features of towns and landscapes
- Securing recreational areas; free access to mountains and forests
- Reduction of greenhouse gas emissions; efficient use of energy
- Maintenance of sufficient land for cultivation

→ **Basic services/infrastructure:**

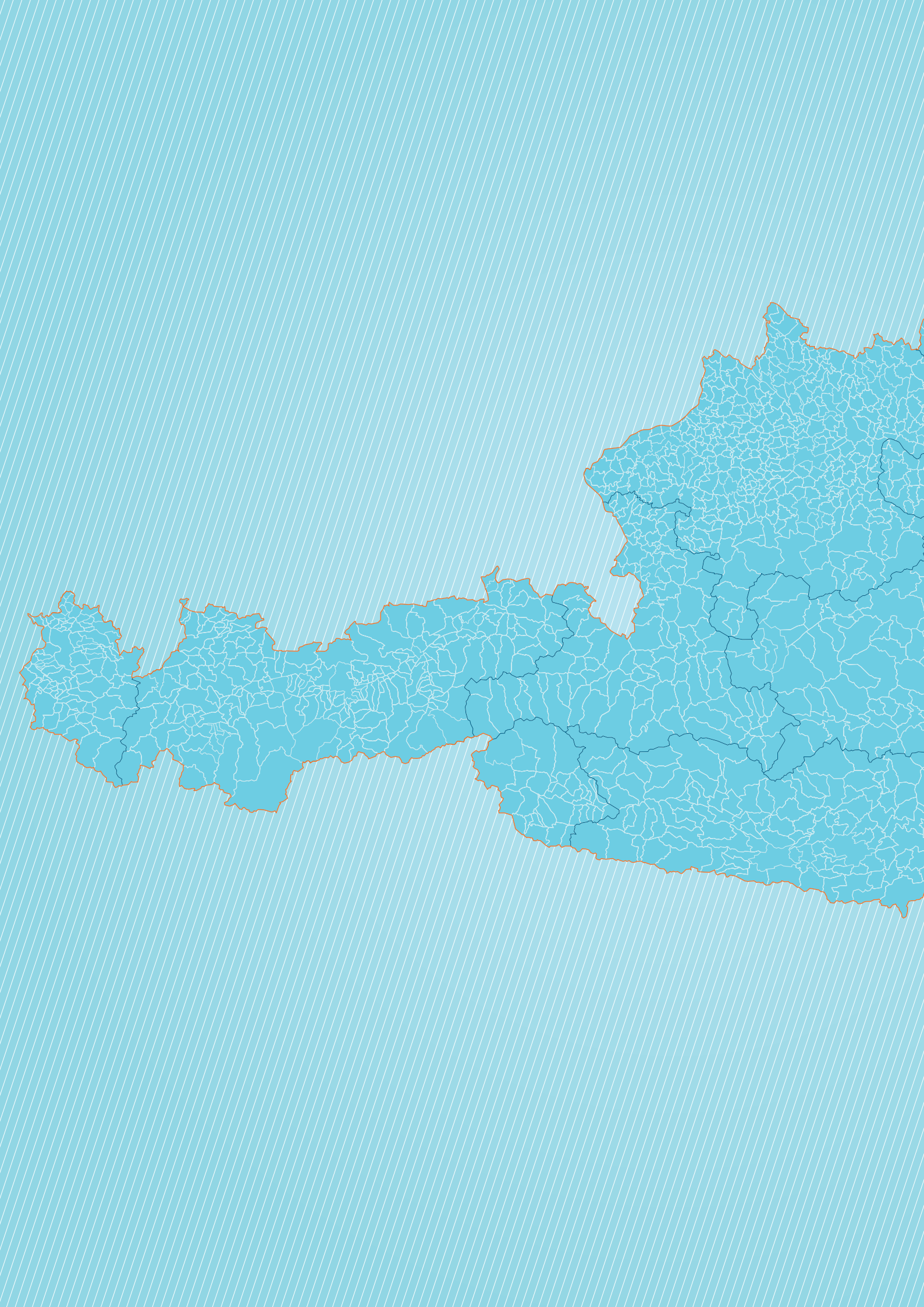
- Guaranteeing the supply of basic services for the population
- Covering transport needs

- Sufficient supply and disposal structures
- Areas for recreation
- **Economic objectives:**
 - Creating spatial requirements for efficient tourism
 - Spatial requirements for a well performing economy, for viable commerce and industry
 - Preserving the existence and capacities of farming and forestry
 - Keeping areas free for water resources and raw materials
- **Settlement development:**
 - Harmonising settlement structures for good regional development planning (avoidance of urban sprawl)
 - Ecologically and economically viable inwards settlement development
 - Efficient use of land; energy-efficient construction
 - securing building land and availability of affordable housing

The objectives address some **key concerns of spatial planning** that must be balanced when drafting concrete planning measures. This may result in a higher or lower weighting of the individual objectives.

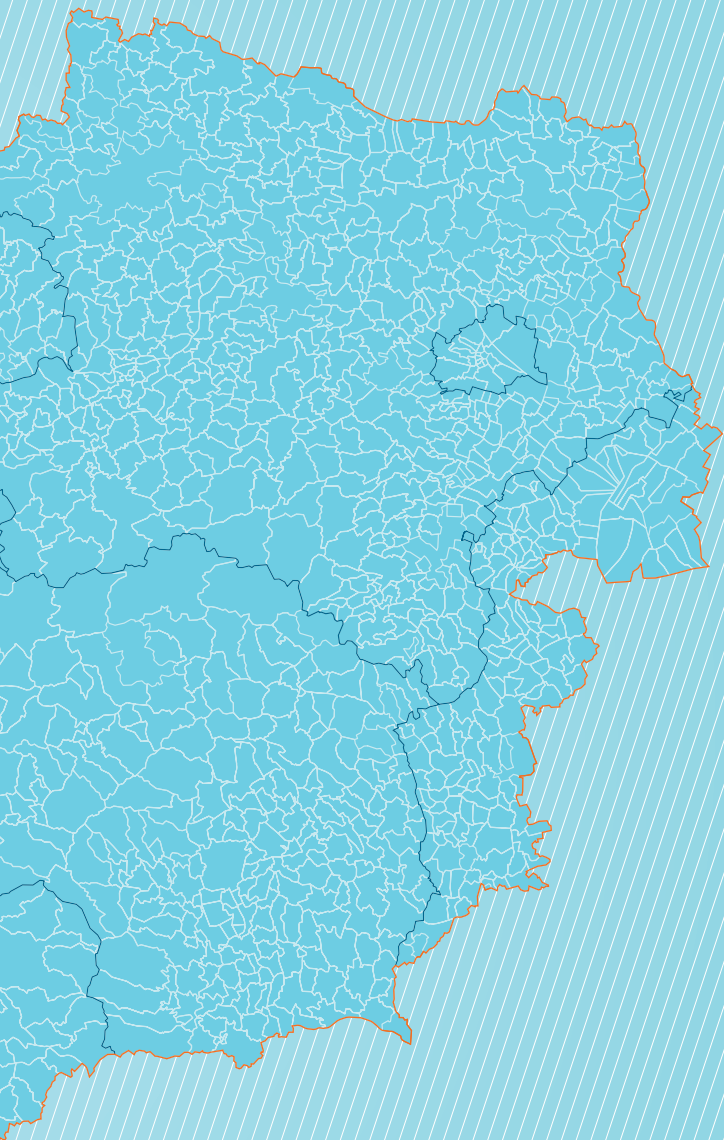
Generally, the spatial planning principles and objectives are **very stable**. The list of objectives in the spatial planning laws are amended relatively seldom. Some spatial planning laws supplement their objectives in following areas:

- Measures to make building land available and active land policy
- Climate protection and adaptation to climate change
- Protection against natural hazards
- Strengthening and reviving town and city centres,
- Affordable housing, strengthening and reviving town centres
- Consideration of gender mainstreaming



5

Distribution of Areas of Competence and Planning Levels



5 DISTRIBUTION OF AREAS OF COMPETENCE AND PLANNING LEVELS

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

5.1 Distribution of Areas of Competence and Remits

Austria has seen many transformations and undergone major territorial changes in the course of its history over the centuries, especially changes in the type of state and to its constitution. The first constitution was adopted in 1920 which defined important principles such as the principle of federalism for the state as well as the strong position of the parliament and the federal government. After the civil war of 1934, a fascist system (Austrofascismus) with a corporatist political system (Ständestaat) was installed that lasted until Austria became part of the German Reich in the spring of 1938. After the end of World War II, the Second Republic was founded which organised the state in the form of the First Republic.

The central principles of the republic of Austria are democracy, a **republican state form**, **rule of law**, **separation of powers**, the **liberal principle** and since 1995, membership in the European Union. Austria does not have just one Constitutional Act, but several laws and provisions that have the same standing as the constitution. Therefore, the Constitutional Act and all federal laws and provisions with constitutional status are considered to make up the federal constitution.

The constitution also defines the **administrative organisation** of Austria. The federal republic is made up of 9 **federal states** (Länder).⁵ These are grouped into districts for the execution of administrative tasks. The 15 statutory towns are considered as such⁶ as well as 79 districts and a subdistrict, an external body of the district commission Liezen. The smallest administrative and political units existing throughout the country are the 2,098 **municipalities**. The merger of municipalities in the past few years has reduced the number of municipalities. Cities with their own statute are at the same time districts and municipalities. The city of Vienna is also a federal state and the capital of the Republic of Austria.

Even though the **European Union** does not have any comprehensive spatial planning competence in the meaning of sovereign planning measures, Austrian spatial planning law has some direct references to European Union legislation. The sectoral expert areas of competence of the EU (e.g. agriculture, transport, regional policy/cohesion, environment) result in far-reaching possibilities to implement spatially relevant measures at the European level. For example, especially in the area of environmental policy there are **several Directives** that contain requirements for spatial planning that have been enacted in national law, above all, through the spatial planning laws of the Länder. The implementation obligation, for example, applied to the **Directive on the Assessment and Management of Environmental Noise** (Directive 2002/49/EC) and also the **Directive on the Assessment of the Effects of Certain Plans and Programmes on the Environment** (Directive 2001/42/EC) according to which (spatial) plans and programmes that are likely to have major environmental impacts must be subjected to a strategic environmental assessment. The **SEVESO III Directive** (Directive 2012/18/EU) aims to prevent major industrial accidents at plants that work with hazardous materials and specifies certain safety distances to be maintained to areas of particular sensitivity and uses. For more on the European requirements and the effects of **regional policy of the EU**, see Chapter 3.

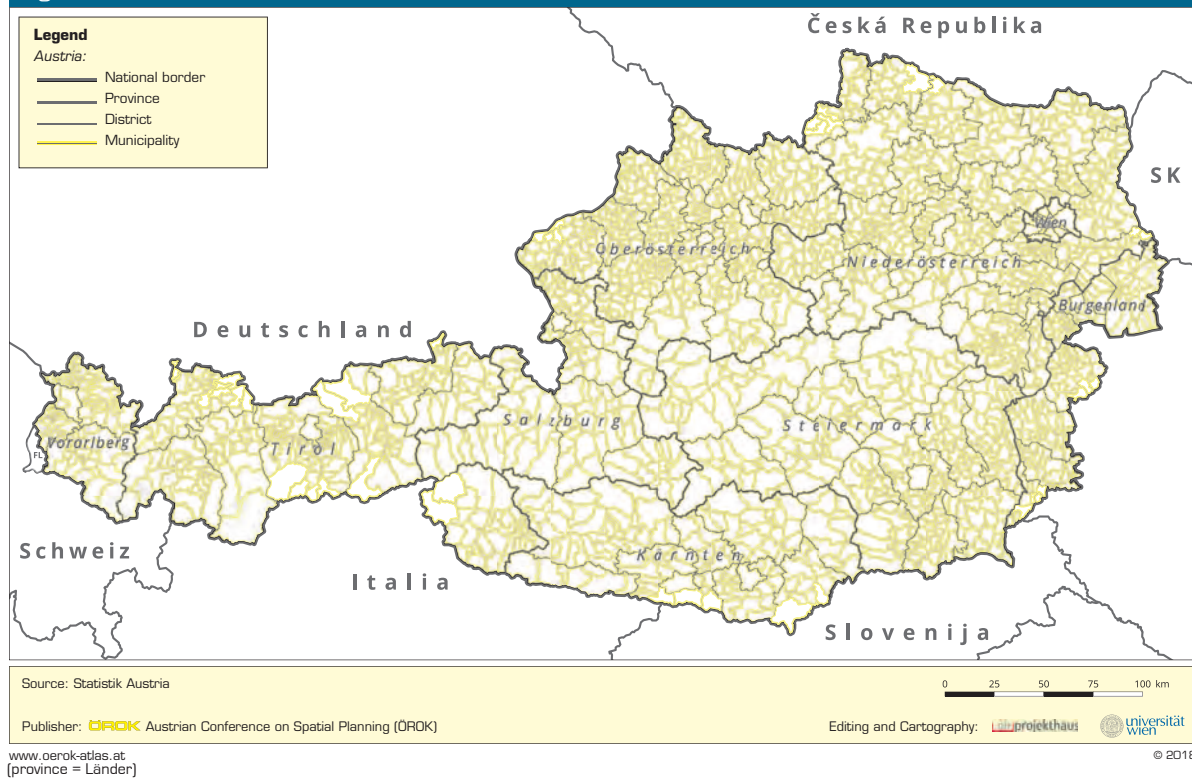
The **distribution of federal areas of competence** between the federal government, Länder and municipalities is essentially laid down in the Federal Constitutional Act. In this context, there are matters that are

- the competence of the federal level in legislation and execution (Art. 10),
- the competence of the federal level in legislation, but of the Länder in execution (Art. 11),
- the competence of the federal level in legislation

5 Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg, Vienna.

6 Eisenstadt, Graz, Innsbruck, Klagenfurt am Wörthersee, Krems an der Donau, Linz, Rust, Salzburg, St. Pölten, Steyr, Villach, Waidhofen an der Ybbs, Wels, Vienna, Wiener Neustadt.

Fig. 13: Administrative breakdown of Austria 2018



on the principles, and the competence of the Länder with respect to the issuance of implementing laws and in execution (Art. 12),

→ and those that are not specifically assigned to legislation or execution at the federal level and remain in the remit of the Länder (Art. 15).

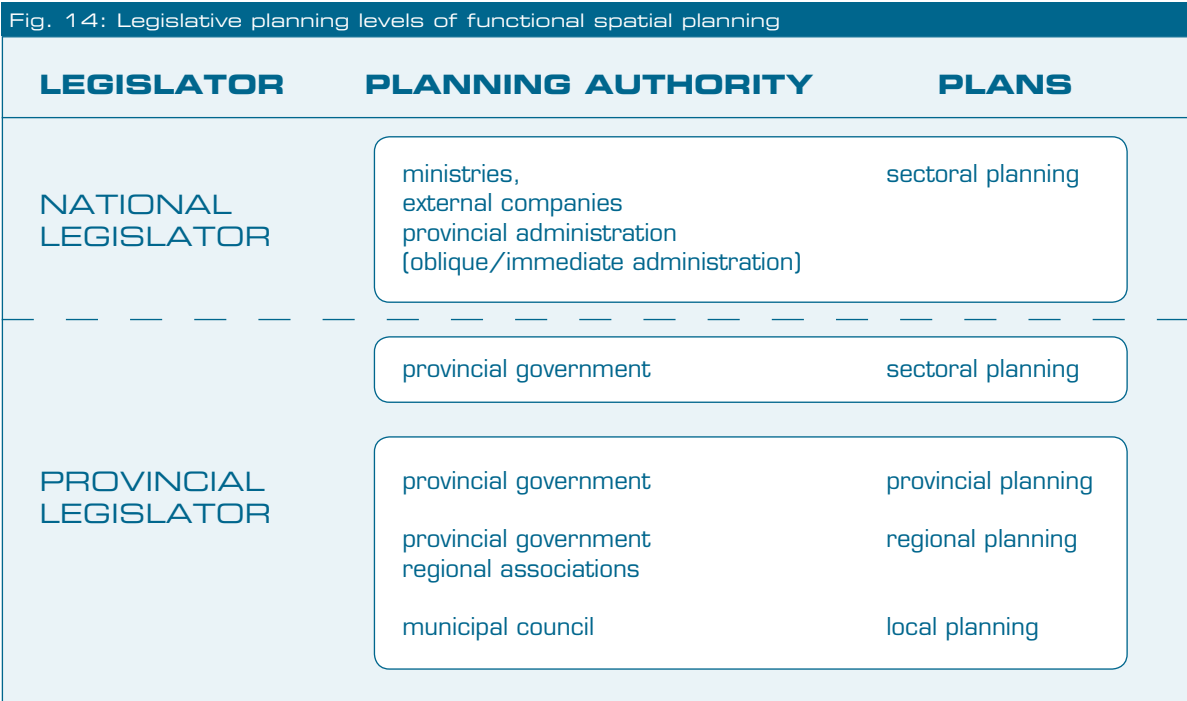
Spatial planning is not explicitly mentioned in the articles on areas of competence of the Constitutional Act. The Constitutional Court handed down a central ruling in connection with the issuance of the first spatial planning laws - which **rank at the constitutional level** - stating that spatial planning as the "orderly and forward-looking development of certain areas with respect to land development especially for housing and industrial purposes, on the one hand, and for the preservation of mostly unbuilt areas, on the other, ("Land Use Planning" and "Spatial Planning"), ... are the **remits of the Länder** with respect to legislation and execution pursuant to Art. 15 (1) Constitutional Act (VfSlg 2674/1954).

Therefore, the general rule is that the Länder are responsible for legislation and execution, but the affairs of the federal government are not affected by this. Thus, spatial planning is "not an autonomous administrative matter", but rather a **bundle of planning powers** with specific areas of competence for sectoral planning at the federal level and general

competence for spatial planning at the **Land level** (matter covering a wide range of sectors and domains).

Due to the lack of centralized competence for spatial planning at the federal level, the **general competence for spatial planning** is the remit of the **Länder**, while the federal government has important planning powers on the basis of relevant laws that pursuant to Art. 10 to 12 Constitutional Act are explicitly assigned to the federal government with respect to legislation and (partially) execution. The outcome of this distribution of areas of competences for spatial planning in the law is that Austria **does not have a federal act on spatial planning**, but nine legislations governing the same matter at the Länder level.

Many matters assigned to the federal government in legislation and execution may be viewed as the sectoral planning competence of the **federal government** in the meaning of **functional spatial planning** (e.g. water law, forestry law, railway law, federal roads law, aviation law, historic monuments protection law). The **Länder** also have sectoral planning powers in addition to spatial planning in the narrower sense of the word that are of significant territorial impact (e.g. construction law, nature conservation law, housing subsidies law, land transfer law).



Schindelegger, Kanonier, own presentation

The provisions of the Constitutional Act on the distribution of areas of competence in legislation and execution are based on the **tenet of separation**: Provisions for which the federal government is responsible through the issuance of laws and their execution are not permitted to be addressed by the Länder and vice versa. In this context, the Constitutional Act makes use of the **enumeration principle** that clearly defines the assigned areas of competence for all matters listed.

An important aspect in the context of the mandatory separation that applies to the distribution of areas of competence of federal government is the **principle of mutual consideration** that takes into account the interests of the territorial authorities involved. For spatial planning measures this means that the freedom of the Länder to define policy by passing laws is limited insofar as the Land as legislator is not permitted to pass laws that would constitute a restriction to the planning regulations of the federal government unless there are well-founded objective reasons. Thus, for example, zoning plans prepared by the municipalities must clearly mark federal government and Länder plans.

The individual territorial authorities take care of the **administrative and planning tasks** assigned to them by law, with the municipalities having only administrative competence but no legislative competence.

Execution must differentiate measures of **regional planning and local spatial planning**. While the Land

governments are responsible for regional spatial planning as a rule, the local spatial planning competence of the municipalities is separated from the execution competence of the Länder. With the Amendment to the Constitutional Act 1962 (FLG No. 205/1962), local planning was defined as a task of the **municipalities within their own territories** (Art. 118 (3) no 9) to be carried out on their own responsibility and not subject to any instructions. Thus, municipalities are central bodies responsible for spatial planning and their competence for local planning is guaranteed in the Constitution. The municipalities are, of course, subject to the supervision of the Länder and must follow the laws and decrees issued by the federal government and the Land.

The principle of **abstract standard municipality applies**. This means that all municipalities regardless of their size, population or resources must fulfill the same sovereign tasks. Every municipality has following governing bodies: an elected general representation body, the municipal council (Gemeinderat), a city council (Stadtrat), and in cities with their own statute, a city senate (Stadtssenat) and a mayor.

The municipalities are **independent economic entities** and have the right to own all types of assets within the limits defined by the general federal and Land laws, to acquire such assets and to sell these. Municipalities may also operate commercial enterprises and define their own budgets.

The municipalities have the possibility of creating **associations** to carry out their tasks or to **transfer** tasks from their scope of activity to a **state authority** upon request. The main intent of the Amendment to the Constitutional Act (FLG I 60/2011) was to enlarge the **cooperation options** of the municipalities. Pursuant to Art. 116a Constitutional Act, municipalities have been permitted to form associations of municipalities by entering into agreements to carry out their tasks jointly since 2011. Until the amendment entered into force, this was possible only for executing individual tasks (e.g. waste water cooperation, school associations etc.)

If there is no separate federal authority for executing federal tasks, within the scope of **indirect federal administration** the Länder must assign the task of execution to the Land governors and their subordinate Land authorities. The Land governors and the Land authorities are subject to the instructions of the competent ministries within the scope of these administrative tasks.

The **legality principle** applies to all administrative tasks. Measures from the area of sovereign administration and also private economy measures require the corresponding legal title and the contents must be defined in sufficient detail. For planning measures this means that neither the federal government, Land or municipality may simply make up planning instruments or enter into any type of private law contracts unless the corresponding basis is given under law.

5.2 Planning Levels

Analogously to the **three levels** (federal government, Länder, municipalities) defined by the distribution of federal areas of competence, there are generally three planning levels also in spatial planning. The **federal government** is responsible for sectoral planning - on account of the lack of a general competence for spatial planning – while the **Länder** take care of sectoral planning and regional spatial planning. The **municipalities** are responsible for local spatial planning. In some Länder, the general planning level is subdivided into **further regions**, in which planning is conducted, for example, by associations of municipalities for a region.

The **relationship between the different planning levels** is generally hierarchical. The **regional spatial plans** define spatial development goals and measures at the Land or regional level, and thus define

measures of interest for the regional level. Regional spatial plans are binding on the Land governments and are oriented at the **local spatial planning** of the municipalities. Although local spatial planning is an **autonomous area of responsibility** of municipalities as guaranteed by the Constitution, municipalities must carry out the tasks within their remits pursuant to Art. 118 (4) Constitutional Act within the framework of the law and the decrees issued by the federal government and of the Land. Therefore, zoning plans prepared by the municipalities must clearly mark federal government and Länder planning.

Regional spatial plans stipulated by decree are therefore directly and **legally binding for municipalities**. This obligatory nature means that local spatial plans, in particular, regional development schemes and zoning plans, are in breach of the law if they contradict regional spatial planning programmes. Restrictions to municipal planning activities in regional spatial plans are permitted provided the scope of competence of the municipalities is considered and the **regional interests** of a planning measure **dominate**. Such proof is given in Land planning especially when it concerns central place facilities, shopping centres, key infrastructure (e.g. wind farms) or commercial areas as well as settlement borders and large undeveloped zones, because just joining zoning plans usually does not result in connected free spaces.

The general **legal effectiveness of regional planning measures** over local plans applies mainly, of course, to the binding definitions issued by decree. If measures are **not defined by decree**, the legally binding effect is significantly reduced. Measures in regional spatial plans that are not legally binding may be considered recommendations, guidelines and non-binding conditions for municipal planning activities which must be considered as public interests when attempting to achieve a **balance of interests**. Conceptual objectives may be diminished in significance or displaced by the planning interests of the municipalities, if other interests are deemed to have higher priority for well-founded reasons.

Regional spatial plans do not have a direct legal effect on **property owners** and cannot be contested by these.

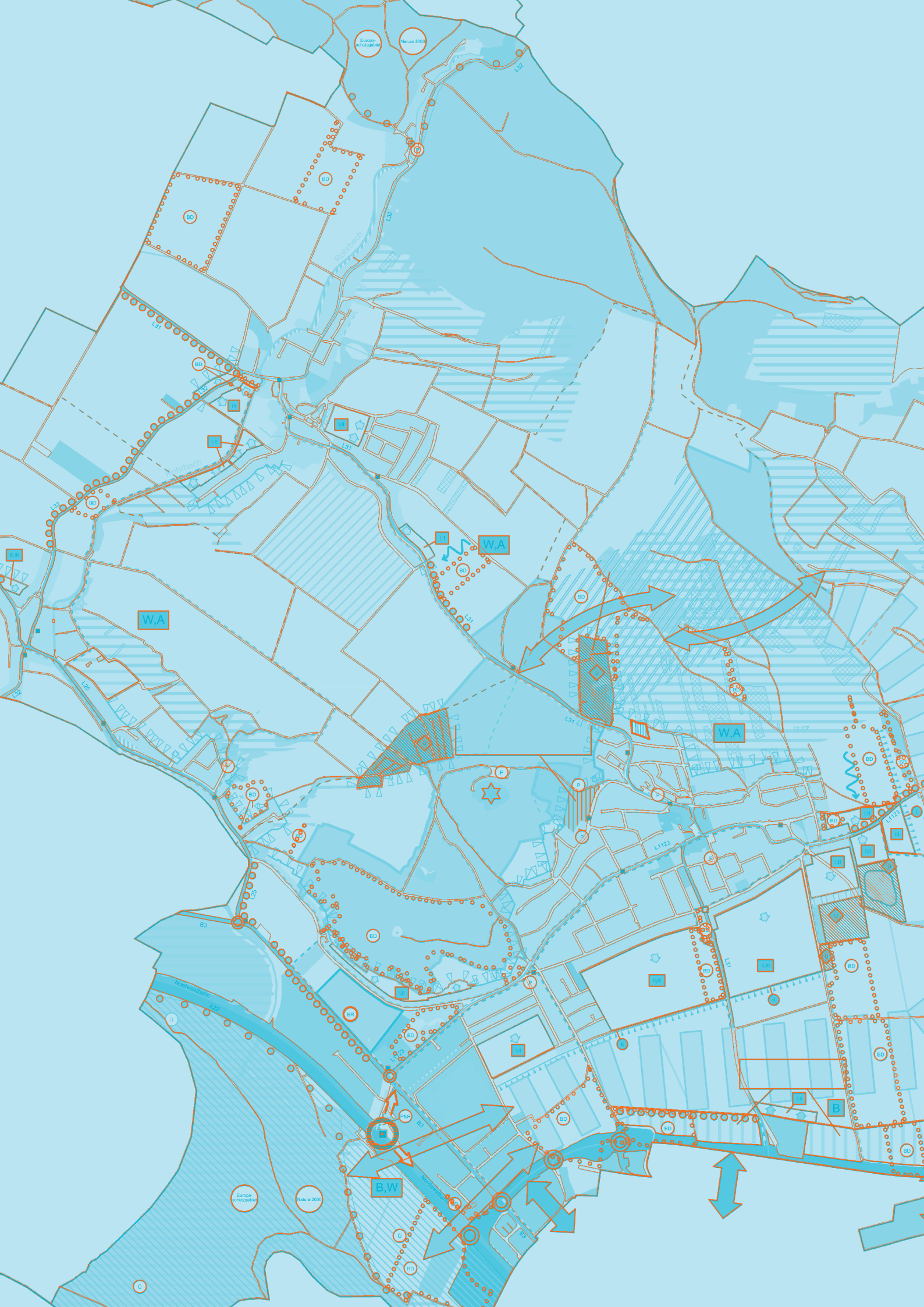
An important coordinating body for spatial development and spatial planning in Austria is the **Austrian Conference on Spatial Planning (Österreichische Raumordnungskonferenz, ÖROK)**. ÖROK was founded in 1971 as a permanent body by the federal

government, Länder and municipalities and serves to enable cooperation among the territorial authorities. According to the business rules of ÖROK, its main tasks are the preparation, continuation and the specification of the Austrian Spatial Development Concept (ÖREK), the coordination of planning and measures of spatial relevance among the territorial authorities and spatial research.

ÖROK itself is made up at the **political level** of the federal chancellor, the federal ministers, the governors of the Länder, the presidents of the town and municipal associations as well as the social and economic partners. The chairperson is the federal chancellor, this function as chairperson may be delegated to the competent minister. At the administrative level, a commission of deputies consisting of heads of departments, directors of the offices of the Länder, general secretaries as well as various committees and working groups have been established to carry out the tasks. The **Standing Subcommittee** is responsible for the preparation and implementation of the

Austrian Spatial Development Concept (ÖREK), the publication of the Spatial Planning Report and the ÖROK Atlas. The Subcommittee for Regional Policy was set up at the time of accession to the EU and acts as a coordinating body for issues relating to EU regional policy and implementation at the national level. The **ÖROK Office** supports the work of the committees and working groups and has been the national managing authority for the operational programme 'Investment in Growth and Jobs/ERDF' since 2013. Funding is provided on a pro rata basis by the members of ÖROK. The ÖROK Office is moreover the national 'contact point' for the transnational EU programmes in which Austria participates.

As there is formally no national planning competence in general spatial planning and due to the lacking (framework) legislation, coordination among the individual planning bodies must be ensured in another manner; ÖROK plays an important **coordinating role** here and is, above all, a communications platform for politics and administration.



Development Phases of Austrian Spatial Planning Law



6 DEVELOPMENT PHASES OF AUSTRIAN SPATIAL PLANNING LAW

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

6.1 The Transformation of Planning

The legal basis of spatial planning is subject to a **constant adaptation and change process** driven by the current requirements of spatial planning. The development of the Austrian spatial planning system in general and the individual instruments in particular can be presented in stages and phases.

A clear differentiation **into phases without overlaps of the functions and roles** is a simplified model, because it is not always the case that planning concepts are simply replaced by others, but over the course of time often the functions and roles of planning overlap. The phases often do not exhibit a succession of planning goals, instruments and measures, but rather a **parallel** course of the different planning goals, instruments and measures. While special provisions in some Länder were defined early on, similar regulations in other Länder are different, were defined later or not at all.

However, the development of planning law is also characterized by **continuity and stability**. Planning measures and instruments tend to be modified rather than replaced and clear cuts are seldom in comparison to 'gradual' transitions. Thus, planning notions in one phase are not a final idea valid only at a specific time, but continue into new periods.

A presentation of the development of spatial planning law based on the **amendments to the laws** would seem logical, as the law always reflects standardized public interests and thus social values. Of course, spatial planning law is only **one part** of actual sovereign planning reality. The competent authorities interpret the law very differently and this creates substantial deviations in **planning practice**. As the legal provisions only permit conclusions to be drawn regarding the concrete implementation to a limited extent, actual execution by the authorities of the Länder and municipalities is a key aspect of the legal planning system. For example, in the past years the typical ad hoc zoning practice could not have been derived from the spatial planning laws, likewise neither the open and participative planning processes, the fre-

quency of amendments to binding spatial plans or the hesitant use of building land consolidation.

6.2 Planning Phases

The development of Austrian planning law can be broken down into the **phases set out below**. The individual phases are defined by the amendments to the legal provisions and changes to planning concepts.

6.2.1 Phase 1: The legal basis is created (1925 to 1973)

The **first spatial planning laws** in Austria have a **long history** that goes back to the 19th century and contain references to building restrictions imposed by law. Without going into too much detail of the first laws passed with a reference to planning, the main origins are to be found in the amendment to the **Constitutional Act 1925** (building matters are the remit of the Länder), **Vienna Building Code 1930** (zoning and development plans are defined by law) and the **Housing Development Act 1933** – introduced in Austria in 1939 (concept of "spatial planning" (Raumordnung), economic plan as a conceptual planning instrument).

After Austria regained its sovereign status in 1945, housing development law remained valid as a law in the remit of Länder and formed the basis for spatial planning law. In the beginning there were considerable reservations and hostility against it because of its origin in National Socialism. Another legal basis for local planning were the various **building codes of the Länder and cities** that include the planning instruments of zoning plans, building regulations and land development plans. The ruling handed down by the Constitutional Court in 1954, **VfSLg 2674/54**, according to which the Länder are assigned competence for general spatial planning in legislation and execution, the Land parliaments adopted several spatial planning laws starting in the 1950s and 1960s.

The **spatial planning laws** passed by the Länder were effective for several decades until almost all Länder

had replaced the original housing development laws by 1973 and had passed their own spatial planning legislation. The spatial planning laws of the Länder were usually oriented on **laws valid at the time** as well as on the **experience of the neighbouring countries** and had divergent provisions with respect to the details depending on the specific intentions in the Länder. One reason for the issuance or review of spatial planning laws was the amendment to the Federal Constitutional Act 1962 which established “**local spatial planning**” (örtliche Raumplanung) as an autonomous area of competence of the municipalities in the Constitution.

6.2.2 Phase 2: Development planning with environmental priorities (from 1974)

After the Länder passed spatial planning laws, these were overhauled in irregular intervals for various reasons and to **varying extents**. The amendments to spatial planning laws are motivated by developments both with respect to the objectives as well as the measures and instruments.

Strengthening development planning

In 1968, the first Land to create a new planning instrument was Lower Austria with a **local spatial planning programme** (örtliches Raumordnungsprogramm), which introduced a strategic perspective at the local level. Styria followed this example in 1974 and Salzburg in 1977, and subsequently all of the other Länder followed suit. The reason for these changes were the efforts to create a **conceptual framework** for municipal zoning plans and therefore supplement planning regulation by development perspectives. **Local development concepts and schemes** (“örtliche Entwicklungskonzepte” - with different names in the different Länder) are intended to create the “thematic foundation for local planning and the development of the municipality” (Carinthian GplG) and “define the objectives and measures aimed for at the local level” (NÖ ROG) or “define a harmonized long-term development of the municipalities” (Styrian ROG). From the 1990s onwards, local development concepts and schemes have become a **key planning instrument** for local spatial planning.

Ecological orientation

The orientation of spatial planning mainly on (economic) growth subsequently shifted to ecological goals due to the “**environmental protection boom**”. For environmental policy, especially the projects of the nuclear plant in Zwentendorf (1978) and the hydro

power plant Donaukraftwerk Hainburg (1984) were milestones. This trends towards greater environmental awareness was translated into planning law in the 1980s in the form of specific **goals** and also **planning measures**, with the Länder taking many different approaches to solutions that are binding to varying degrees. An improved **protection of undeveloped areas and stopping urban sprawl** were the goals of regional and local spatial planning in a number of planning measures. The aim was to restrict generous rezoning in peripheral locations and major construction activity in green areas. The environmental aspects were given even more attention with the start of the **sustainability debate** in the 1990s and the aim was to ensure that environmental aspects enjoyed the same treatment as social and economic aspects.

6.2.3 Phase 3: Land policy planning measures and regional planning (from 1990)

Spatial planning in Austria has been marked by substantial changes from the 1990s onwards. The framework conditions changed due to **international changes**, especially through the access of Austria to the EU (1996) and the transformation process of the economies and societies in Eastern and Southeast Europe. In the Länder, on the other hand, the problems of (local) spatial planning became apparent with the **execution of the plans**, revealing that these were not solvable by conventional instruments. Thus, the accumulated surplus of building land had negative effects and triggered land policy measures in the beginning of the 1990s. A “**proactive land policy**” was conceived to counteract the decreasing availability of available building land (with a simultaneous surplus of building land) and achieve a higher degree of mobilisation of building land.

Apart from intervention measures and pressure, the lawmakers opted for non-sovereign measures for proactive land policy that include mainly the acquisition of building land plots by the municipalities - with the support of the Länder. The “**soft**” **obligation to build** in Styrian law (ROG, amendment of 1988) is the start of Land-specific measures that aim to restrict building permit periods and/or create an obligation to build. Apart from the zoning back to the original category without compensation as a sanction for not completing building activity within the required period, Styria establishes two instruments in the respective spatial planning laws that aim to achieve compliance with the zoning granted or a change in ownership:

- **Spatial planning contracts** refer to agreements entered into by municipalities and land owners for the purpose of “using” land zoned as building land in compliance with the land use plan.
- **Development and infrastructure costs** for the owners of plots on undeveloped land are regulated in several Länder as infrastructure charges, development charge or infrastructure tax. The expectation is that such charges will encourage more land to be made available for building, because the hoarding of undeveloped land is subject to special charges and taxes.

In the mid-1990s, it became clear that there are **strict legal limitations** to the mobilisation and securing of building land. In 1999, the Constitutional Court repealed the Salzburg model by the ruling 15625/99 that stipulated a mandatory spatial planning contract on the grounds of being unconstitutional. The consequences were significant insecurity among legislators and those applying the law with respect to the limitations and possibilities of private law agreements in combination with sovereign planning acts.

6.2.4 Phase 4: Differentiated and detailed regulations (from 2000)

It is very hard to identify **further phases** in Austria’s spatial planning laws at the start of the 2000s. The activities of legislators and planning authorities were **too divergent** and thus do not permit any common development stages to be identified for these years. The provisions vary widely for (regional) spatial planning advisory councils, for regional sectoral programmes and schemes, for environmental impact assessments, for compensation for rezoning to original status, for zoning categories (especially for special zoning permits and for construction on undeveloped land), for exceptions to zoning plans, for the phase-wise development of land and for building land consolidation.

Despite all of these differences, there are **certain developments** during this period that are valid for all or several Länder:

- **European integration and implementation of EU regulations:** Since Austria joined the EU, certain EC Directives relating to spatial planning are being implemented additionally in spatial planning laws. Therefore, the legislators at the Land level are now being required to ensure implementation of directives with a reference to planning in conformity with the EU law, because the requirements at the EU level are becoming incre-

asingly stricter. For example, as a consequence of the Habitat Directive and the Birds Directive (NATURA 2000) as well as the Seveso III Directive, several Länder have amended their spatial planning laws. The implementation of the Assessment of the Effects of Certain Plans and Programmes on the Environment has created additional auditing steps in the strategic environmental assessment that must be applied especially to sovereign spatial plans.

- **Shopping centres as permanent “hot topics” in planning law:** No other use or construction form has been regulated as severely in spatial planning laws as shopping centres, with the requirements having increased steadily. Shopping centre regulations have been the topic of many amendments to spatial planning laws, thus revealing the problems that arise in practice. One common thread in the regulations is the goal of preventing shopping centres in undeveloped areas (especially with goods of everyday use) and to avoid weakening the city centres. The legal measures taken to achieve these goals vary, with mostly regional planning measures restricting municipal planning activities for shopping centres.

Greater significance of regional planning: The regional associations in place since 1992 in Salzburg that were set up for **planning regions** are a milestone in Austrian regional planning. The key tasks of the **municipal associations** include participation in the creation of regional programmes that are passed into law by the Land governments as decrees, the preparation of proposals for local spatial development, and statements of opinion on Land plans. This planning for the concretely defined “regional level” aims to achieve better coordination among the municipalities and has served as model for other Länder, which also set up regional associations – some much later – and other forms of cooperation among municipalities.

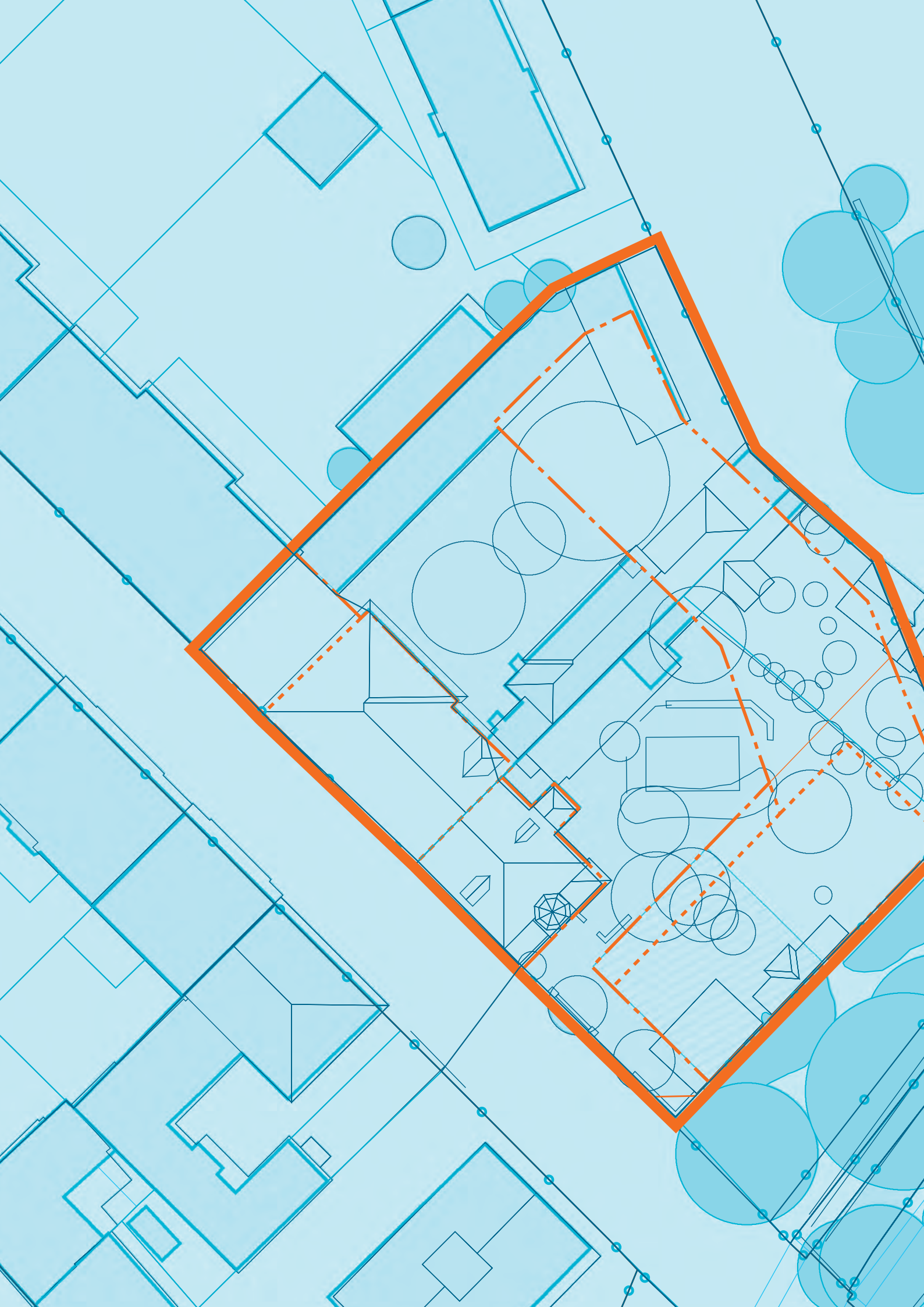
6.2.5 Phase 5: From government to governance (from 2005)

In the past few years, **cooperative and participative planning approaches** have gained significance. The beginning around 2005 was characterized more by expert discussions and publications rather than amendments to legislation. The **role of the actors** has changed in the planning process and resulted in a governance approach being taken more frequently. A feature of these **governance models** is the interaction between key groups of actors - beyond the public sector - when reaching decisions on spatial

development and implementation. There are very different **types of planning** (guidelines, strategies and schemes, on the one hand, and sovereign regulations on zoning and development, on the other) and contents, and also very different **planning processes**. The approaches taken to involve citizens are manifold and run the gamut from providing information to participation and collaboration in discussions as well as forms of cooperation and co-determination.

This is also the spirit of the **negotiated planning measures** that are secured under civil law by

spatial planning contracts. All spatial planning laws have created the legal basis for (urban) planning contracts that are applied in many different ways in practice. What becomes clear is that spatial planning measures are only one part of the extensive steering strategies that are supplemented by other measures and processes. Generally, **work** is becoming more and **interdisciplinary** and different decision-makers are being involved especially from other territorial authorities and expert areas, and the relevant **interests are being harmonised**.



Planning Instruments



7 PLANNING INSTRUMENTS

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGG

7.1 Spatial Planning Regulatory System

The **range of instruments and measures** for steering spatial development varied widely throughout Austria and has become much more differentiated in the past years. Apart from the **sovereign instruments** that may be of regulatory policy nature or of strategic development significance, **conceptual and informal instruments** are being used more and more at the various planning levels (schemes, strategies, guidelines, etc.) as well as cooperation and consensus instruments (participation procedures, mediation and moderation or working groups and citizen's initiatives). **Auditing instruments** are also of great relevance, as these assess the feasibility and impacts of projects and measures at an early stage (strategic environmental assessment, spatial assessment and environmental impact assessment). Finally, there are also **fiscal financial aid instruments** (e.g. housing subsidies) which may have substantial impacts on space through the weightings assigned to the aid criteria.

Planning instruments aim to **steer the development of spatial structures** in order to obtain the best possible use and to sustainably secure the habitat, bearing in mind societal objectives. In a traditional view of planning, planning instruments are understood to be mainly **regulatory policy measures** that help to steer the spatial development of certain areas by objectives and measures defined by sovereign bodies. With respect to the current understanding of planning, the limitation to sovereign plans and programmes is, of course, not enough, because it is not only the formal definitions of measures in texts and plans that contribute to the success of planning goals. Spatial planning and its instruments have become more diverse in the past few years – it is no longer just state planning instruments that are applied. Even though the traditional sovereign instruments are less popular than the “**soft**” **informal conceptual instruments**, it would be a distorted representation of spatial planning if one were to attach significance only to the non-binding measures. New informal planning forms and measures have gained significance, but have not replaced conventional planning measures by sove-

reigns. Therefore, one cannot assume that there is one “**planning world**”, but rather several layers of spatial planning supplementing each other instead of replacing each other.

Many measures are not (no longer) limited in content to the “**classical**” land use planning, but **combine** different steering methods depending on the challenges planning is faced with. **Planning geared towards implementation** is increasingly making it clear that the various sectoral domains and their possibilities must be combined and harmonised depending on the situation.

The various types of plans, programmes and concepts may be systematically **differentiated in several respects**:

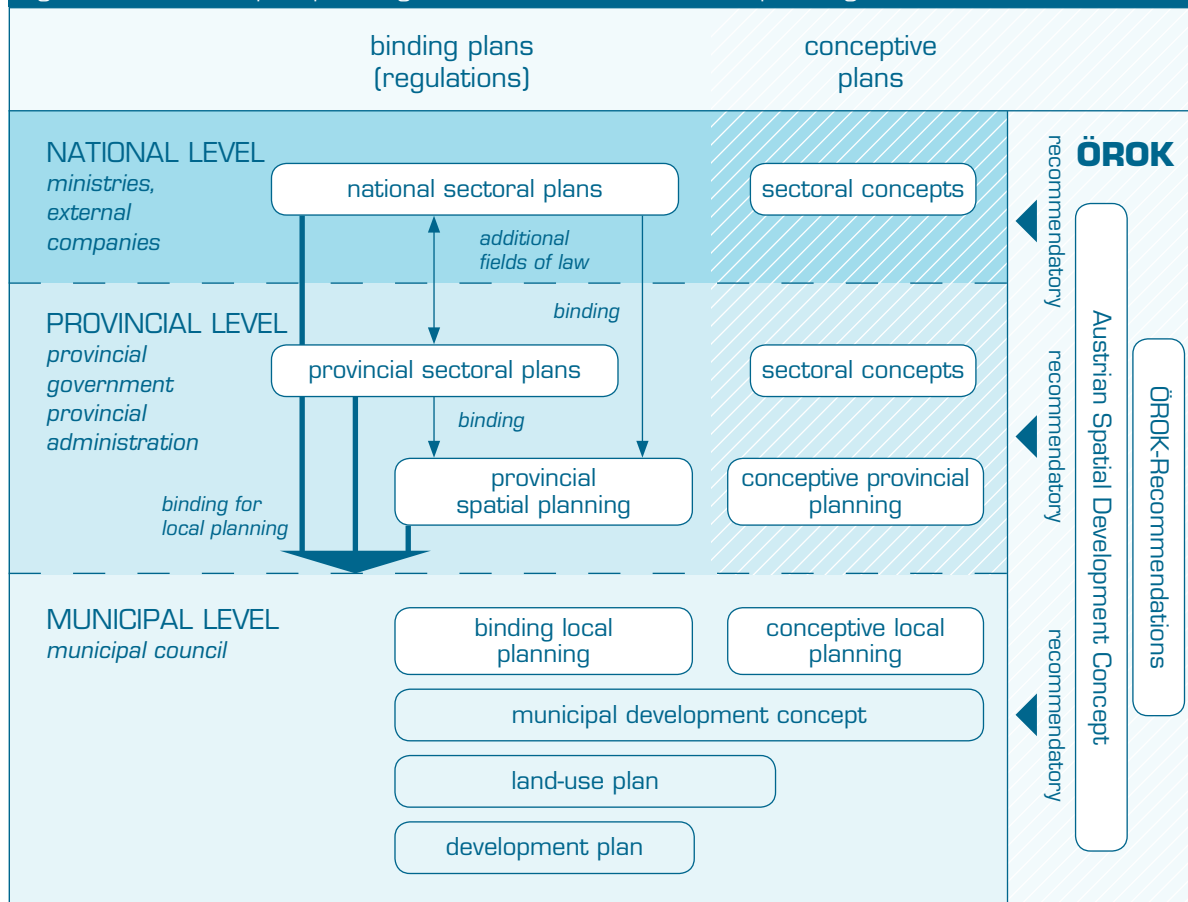
Legal validity and binding nature:

- **Sovereign instruments** of binding nature: These traditional types of plans, which are determined and set out in law relatively stably, are generally enacted by regulations and are legally binding, albeit addressing different target groups.
- **Informal instruments** of conceptual nature: The diversity of instruments and conceptualizations found in guidelines, strategies, concepts, visions and similar materials is enormous and creates a brilliant spectrum of regional considerations. Usually, these instruments are not binding in nature and the procedures are not formalized by law.

Spatial scope of application and planning levels:

- Spatial plans at the international level that contain stipulations that apply across borders;
- Spatial plans at the federal level that define goals and measures for the domains that are the competence of the federal government;
- Spatial plans that apply to the entire territory of a Land;
- Regional spatial plans that apply to parts of a Land and usually to several municipalities;
- Local spatial plans that concern a municipal area or parts of it.

Fig. 15: Relationship of planning instruments at the various planning levels



Schindelegger, Kanonier, own presentation

Competence and planning bodies:

- Authorities and outsourced legal entities of the federal government.
- The governments of the Länder as the competent planning authorities; these are responsible for both planning by the Land and for regional planning.
- Regional associations (such as in Salzburg, Upper Austria, Tyrol) as planning bodies, with the Land government formally issuing binding spatial plans where applicable;
- Municipalities as competent planning bodies for local spatial plans.

Object of planning and content:

- comprehensive, holistic planning instruments with several thematic strands (general);
- sectoral plans that are often limited to one or just a few sectors with a spatial reference (detailed);
- spatially concentrated plans that focus on a narrowly defined scope (detailed).

In the explanations below, the **hierarchical planning structure** of Austria's planning system constitutes the

structuring element and the various planning levels and planning types are assigned individual planning instruments. Of course, this is a **simplification** of current instruments in order to present a better overview of the instruments used in Austria for spatial planning. In practice, planning instruments are developed and used that cannot be unambiguously assigned to a specific category, but tend to mix and combine criteria specific to planning types.

Figure 15 lists the **various planning instruments and their binding effects** (sectoral plans, spatial planning instruments). Conceptual plans were not presented in detail in the description due to their complexity, but as a rule they are recommendations. The various ÖROK recommendations and the ÖREK (Austrian Spatial Development Concept) are recommendations in nature for all planning levels.

7.2 Sectoral Planning by the Federal Government

The Constitutional Act does not confer competence for general spatial planning to the federal govern-

ment, but rather competence with respect to **legislation and execution for key sectoral plans** of spatial relevance. In accordance with the hierarchical planning system, determinations of spatial relevance based on federal acts are binding for spatial planning in general (“**matter covering a wide range of sectors**”) and for regional and local spatial planning in particular. With respect to the sectoral plans by the Länder, however, there is no priority for determinations by the federal government, as Austria’s Constitutional Act does not stipulate that “federal law overrides Länder law”.

Many federal acts on relevant matters contain **regulations with significant spatial impact**, with a differentiation being made in the planning system between provisions that define

- planning instruments with a **strategic orientation** (mostly as general legal acts in the form of decrees),
- and **project-related determinations** (mostly as single legal acts in the form of official decisions).

Apart from binding determinations, different **informal concepts and plans** are prepared by the federal government (e.g. Österreichischer Baukulturreport, Nationaler Umweltplan, Österreichischer Rohstoffplan) that are of substantial spatial relevance (but these cannot be discussed in the following).

In both cases, the findings are relevant for regional and local spatial planning, as these contain long-term binding rules with **substantial utilisation restrictions** for defined areas of application. In the case of the planning instruments of the federal government, the planning types and their contents as well as drafting and harmonisation processes are of interest, considering that there are obvious similarities with the spatial planning instruments of the Länder passed into law.

The **execution of specific federal matters** and subsequently the drafting of the different planning instruments are of enormous complexity. Generally, the sectoral plans are the responsibility of the **federal administration**, in other words, of the competent ministries. Over the years, many of the tasks have been outsourced to companies owned by the federal government. In 1982, for example, **ASFINAG** was founded as a company owned by the federal government and assigned the task of planning, financing, building, operating and maintaining federal roads. Another company owned by the BMVIT is **Via Donau**. It was founded in 2005 to take care

of the tasks of the federal government in the areas of planning, organisation of tenders and control of water engineering projects for Austria’s waterways.

7.2.1 Forestry

Spatial planning also exists for the area of forestry (§ 8 Forestry Act (ForstG) 1975). Spatial plans for forestry generally depict in maps the factual circumstances and recognizable developments that determine the condition of forests. The **Forest Development Plan** (*Waldentwicklungsplan*, *WEP*) defines the main functions of areas covered by forests (use, protection, welfare, and recreational functions), thus defining the conditions for forest management. A further plan under forestry law is the **forest map** (*Wald-fachplan*) that must be prepared by the owners of the forests for forest management. With respect to the presentation and evaluation of natural hazards, the **natural hazards maps** (*Gefahrenzonenplan*) under the Forestry Act are relevant - apart from the water law instruments. These constitute the basis for municipal planning and building permit decisions.

Natural hazards maps are prepared by the “forestry service for torrent and avalanche protection structures” (WLV) in accordance with the applicable laws, regulations and guidelines. Natural hazards maps demarcate the hazards and their intensity in detail down to the plots of land. **Susceptibility maps** (*Gefahrenhinweiskarte*) provide information for the entire territory on the existence of hazards, but without making a direct reference to units of space defined by law (e.g. plot of land) or passing through official procedures in a formal act of recognition (permit). On the other hand, natural hazard maps demarcate the hazards and their intensity in detail down to the plots of land.

As the hazardous zones sometimes overlap with **settlement areas**, the natural hazards maps contain important statements on the risks to settlements from natural disasters, especially concerning areas that are not suitable or only to a limited extent for settlement purposes because of the respective hazards. The natural hazards map provided by the forestry service for torrent and avalanche protection structures is an expert opinion for an entire territory regarding the areas surrounding hazard zones (torrents and avalanches). There are two central categories that serve as a basic distinction for the degree of risk from hazards:

- **Red zones** are areas that are at risk from torrents or avalanches to an extent that their permanent use

for settlement and transport purposes is not possible or only by incurring unreasonably high costs due to the likelihood of damage.

- **Yellow zones** include all other areas at risk from torrents or avalanches whose permanent use for settlement or transport purposes is limited due to this risk.

Reserved areas are depicted that must be kept free for protection measures or that require special management. **Brown susceptibility zones** (areas exposed to other natural hazards such as rockslides or mudslides) and **violet susceptibility zones** (areas with a protective function depending on the conservation of the characteristics of the soil). Natural hazards maps are, on the one hand, the basis for the planning of protective measures and, on the other, constitute an important basis for spatial planning. The spatial planning laws of the Länder thus make a reference to the hazardous zones to varying degrees and attach prohibitions and/or mandatory conditions to these especially for zoning plans.

Forestry law attaches great importance to the principle of forest conservation. An important concrete implementation of the principle of forest conservation is found in the **regulations on deforestation** that define if, and under what conditions, areas covered by forests may be used for other purposes. Pursuant to § 17 (1) Forestry Act, the use of forest soil for purposes other than those of forestry (deforestation) are generally prohibited. In exceptional cases a permit may be granted for deforestation. The forest authorities decide within the scope of deforestation proceedings if there is a special public interest (i.a. settlement) that would permit a departure from the principle of conservation of forested areas.

Apart from restrictions for general forested areas, especially the requirement to obtain a deforestation permit for other uses, the Forestry Act defines **special conditions and restrictions** for certain forests (parts of forests). Such special conditions are given, for example, for

- Protective forests, with a difference being made between a regional protective forests and property protective forests (§ 21 ForstG).
- Forest 'Kampfbzone' and wind protection installations (§ 25) ('Kampfbzone' refers to the zone between the timber-line and the tree-line.)
- Protected forests (§ 27)
- Forests with special habitats (biotope protection forests) (§ 32)

The use for these forests may be restricted or certain treatments may be made mandatory.

7.2.2 Water management

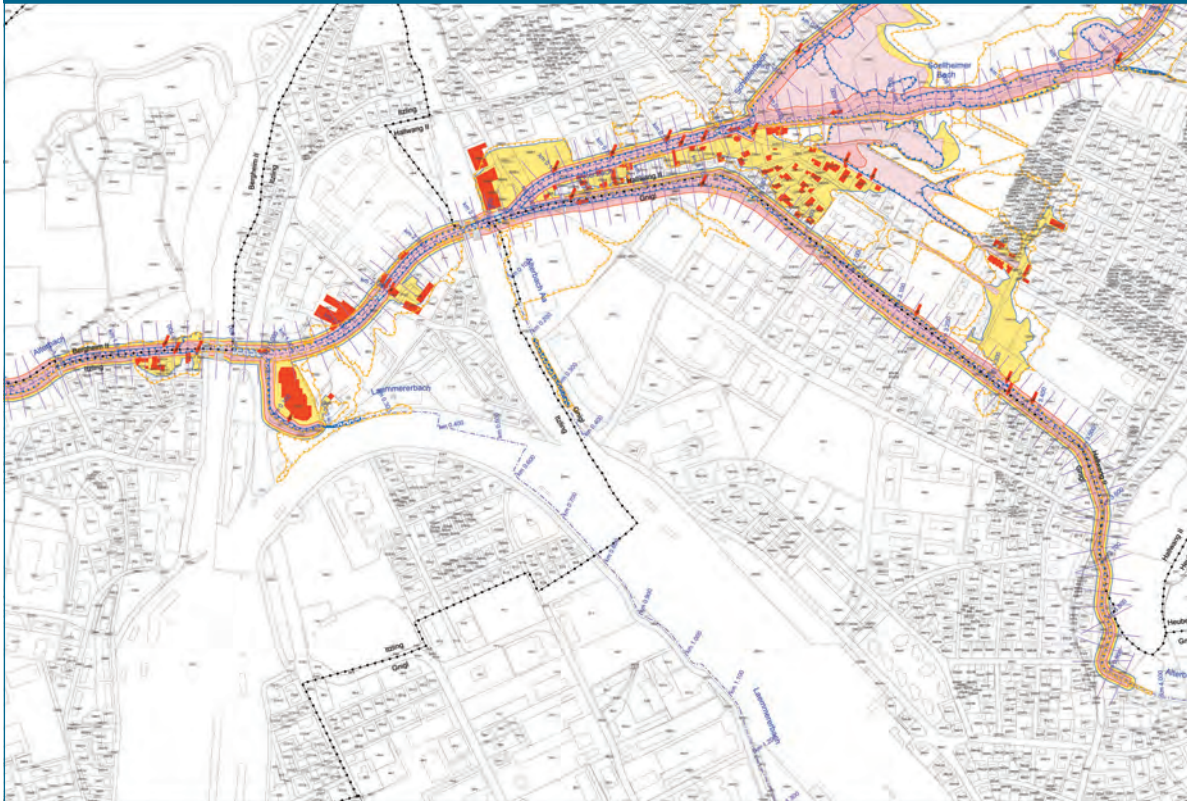
Water management is a very broad field and apart from being governed by national laws, it is also the subject of a number of European directives. The **Water Act** (WRG 1959) governs, above all, the use, management and administration of bodies of water. No holistic spatial planning for water management in the narrower sense exists, but rather different plans that cover the key framework conditions for spatial development.

In § 55a to § 55k the Water Act regulates new planning instruments in the meaning of the EU Water Framework Directive. For example, it mentions the instrument of **regional water management programmes**. These programmes permit the zoning of areas for water management purposes and may also impose restrictions. These may be passed by decrees issued by the governor of a Land. At present, there are programmes for valuable waterways and for the management of ground water sources, but further applications are conceivable and possible.

Water law is important for spatial planning, especially with a view to the provisions regulating how to deal with flooding events. Thus, for example, it imposes a general obligation to obtain permits under the Water Act for **30-year flood runoff areas** – this is the surface area which statistically is flooded once in 30 years. These areas are available for development for building only to a limited degree, as any land development is not permitted to hinder flood runoff. The demarcation lines for 30-year and 100-year flooding events therefore constitute important information for concrete spatial plans.

Today, a **natural hazards map** exists under **water law** similar to the natural hazards maps in forestry. It differentiates between a red zone referring to areas that are not suitable for permanent use for settlement and transport, and a yellow zone in which building use is permitted under certain conditions. Moreover, it demarcates zones with a low risk and areas that are important for flood runoff and are needed as retention spaces or which are used for water protection and water management purposes. The natural hazards maps mostly do not have a direct effect for spatial planning unless spatial planning legislation by the Länder specifically refers to the natural hazards maps in zoning bans for building land (e.g. Upper Austria and Styria).

Fig. 16: Section of the natural hazard map Alterbach, BWV Salzburg



Federal Water Management Salzburg (natural hazard maps under water law)

The contents of the natural hazards maps are important as a planning basis and must be considered.

An important water (protection) plan is the **flood risk management plan** which is related to the implementation of the Directive on the Assessment and Management of Flood Risks (Floods Directive). The plan specifies harmonised measures for a planning period for the management of risks from sections of bodies of water that exhibit a significant flooding risk. The flood risk management plan attempts for the first time to combine into one instrument diverse measures from different areas such as protective water management, nature protection, disaster control, awareness-raising activities and also spatial planning. The list of measures contains 22 measures that are allocated to five fields of action modelled on the risk cycle (prevention, protection, awareness, preparedness and ex-post care). Measures such as M02 "consider natural hazard zone plans", M04 "create and/or consider local and regional plans" and M10 "check and/or carry out resettlement and rezoning" have a direct connection to spatial planning. For spatial planning, the flood risk management plan serves as an important source of information for planning measures, but is not directly legally binding.

Based on the goals of **keeping bodies of water clean** and **securing the quality of drinking water**, water legislation contains restrictions for areas that are of special importance for obtaining drinking water. The water management authorities may **impose regulations on the management** or other uses of land and bodies of water or prohibit the construction of certain plants or define relevant protected areas in order to protect water supply facilities pursuant to § 34 (1) Water Act by issuing an official notice. If such a protection regulation is not sufficient, especially in the case of large protected areas, a ruling may be imposed under § 34 (2) Water Act by issuing decrees that **define closed areas**.

7.2.3 Transport routes – railways, federal roads, navigation, aviation

The competence for the planning of **linear infrastructure projects** is divided between the federal government and the Länder with respect to legislation and administration in different ways, a fact that may render cross-sectoral measures difficult. With respect to the areas of competence defined in the Constitution, a difference must be made between the **following areas of competence** for legislation:

- Sole competence of federal government (railways, gas lines),
- Federal government and Land have competence (roads),
- Federal government and combined competence of federal and Land levels (high voltage routes, environmental impact assessment).

From the standpoint of areas of competence assigned by law, the **federal government** is often the **competent body** for linear infrastructure projects with respect to land use plans and for infrastructure facilities. The planning of high priority infrastructure facilities such as federal roads, railways and high voltage routes that cross Länder borders is not primarily the spatial planning remit of the Länder. The federal government is responsible for defining spatial planning measures when regulating the respective matters, although not all relevant laws define comprehensive (conceptual) planning obligations or powers.

Any planning measures based on these matters which are the competence of the federal government – if these are binding – **must be applied by the spatial planning authorities (Länder, municipalities)** and usually override defined spatial planning uses.

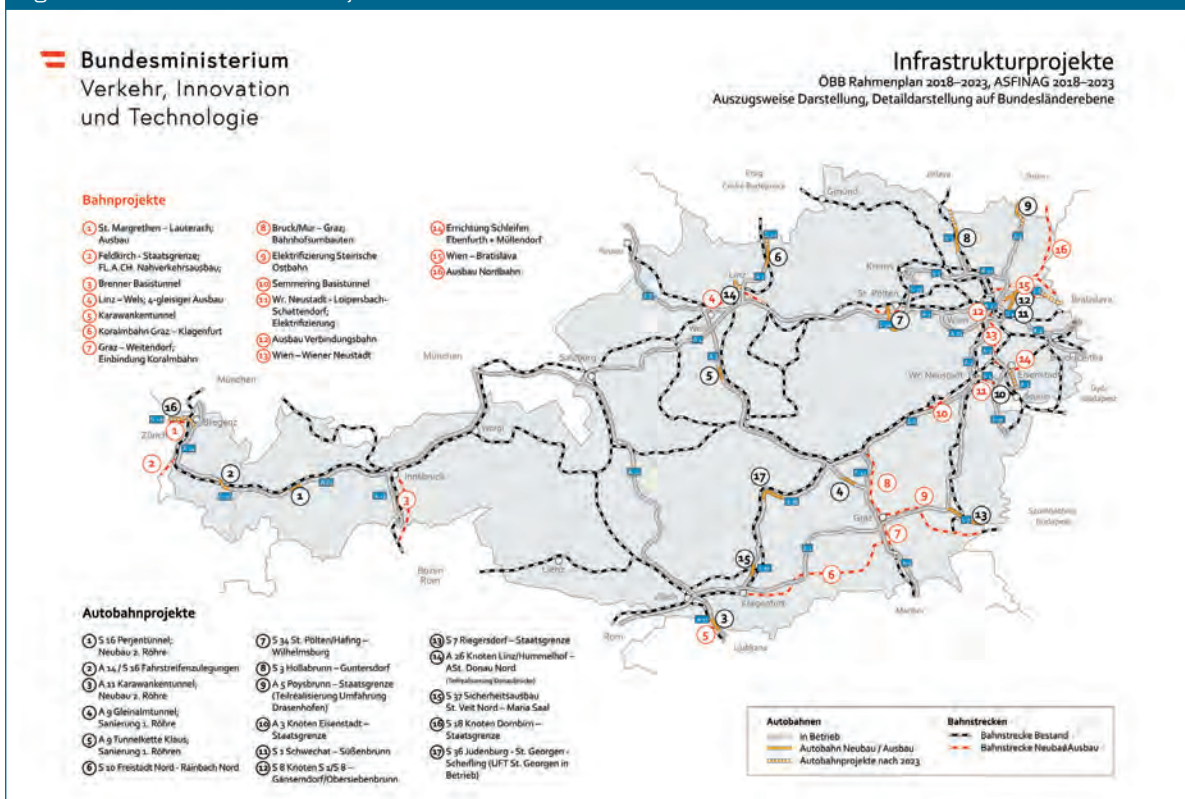
The respective bodies for planning and measures may thus reach decisions regarding location and uses based on the relevant laws; the Länder must apply these in their regional plans and the municipalities in their local spatial plans especially in zoning plans, with the spatial planning authorities not having much leeway in this context.

The individual relevant laws contain different instruments, measures and permit procedures for the planning and implementation of linear infrastructure projects that are in some cases the competence of different levels when being put into practice.

The systemic organisation of planning starting out from general statements at a relatively high level of abstraction and proceeding down to detailed plans are contained in part also in the **relevant laws**, with the following steps – generally speaking – being possible:

- Strategic overall planning – long term implementation
- Project planning for certain sections – medium-term implementation
- Detailed planning for concrete projects – immediate implementation

Fig. 17: Infrastructure Projects of BMVIT 2013



BMVIT (=Federal Ministry for Transport, Innovation and Technology). The chart shows the future projects (2018 – 2023) of ÖBB (Federal Railway Company – red numbers) and ASFINAG (Federal highway company – black numbers).

The legally defined instruments in each of the relevant laws do not refer to the different levels in all cases. The legal implementation is often at the project level and in some cases at the programme level. The legal basis is sometimes less specific for strategic overall planning. The instruments and measures specified by law for keeping areas free for linear infrastructure projects do not necessarily reflect the extremely long project realisation periods that may cover several decades.

As regards a harmonised planning for transport routes of national importance, efforts have been made in the past time and again to draft master transport schemes. At present there is one transportation policy scheme for Austria which states goals and strategies of a comprehensive transport policy until 2025, on the one hand, and contains the respective maps on the other. The conceptual planning of high priority transport routes are embedded in the development of the Trans-European Network (TEN).

Railways and high-speed routes

The Railways Act generally does not contain any railway line plans relating to land use. The initiative for planning remains with the enterprises whose plans become legally binding as soon as they are issued official notices under the Railways Act. Therefore, no conceptual planning for railway projects may be expected from the railway authorities as a rule, but from the railway enterprises that are basically private law companies. Planning for investments in railway infrastructure in Austria is done mainly by a state-linked railway enterprise, namely by ÖBB Infrastruktur AG.

The **High-Speed Railway Routes Act (HIG)** and the Federal Roads Act (BStG) state procedures to ensure the course of the routes, to define the areas for routes by issuing a decree or an official notice. The main effect of this decree is the prohibition of new construction, additions and conversions as well as the erection or adaptations to structures within the routes stipulated or defined by decree. For spatial planning this means that the railway permit procedures under the Railways Act, which is not prepared by any planning act, includes a **route determination procedure** under the High-Speed Railway Routes Act (HIG) for the purpose of securing railway routes going forward for the long term in a similar manner as set out in the Federal Roads Act. The HIG empowers the federal government to declare existing or planned railway routes to be high-speed routes by issuing a decree (high-speed railway routes decree) that are essentially defined by

their starting points and end points and/or stops in between.

The HIG includes a **simplified procedure** to secure the planning of high-speed routes. If at the start of the permit procedure to approve the route it is feared that due to changes to the surface areas planned to be used the construction of the planned high-speed route will be rendered very difficult or expensive, the Federal Minister for Transport, Innovation and Technology may define a preliminary strip of land for the planned route by decree. Decrees for the preliminary securing of the routes course have the effect of a ban on construction, although exemptions may be granted.

Federal roads

The federal government is generally responsible for the legally binding determination for the course or the route of a federal road. For the planning of federal roads, the Federal Roads Act defines the following – sovereign – planning instruments and measures:

- Regulations under federal law The construction of a new road or a change to an existing course requires as first step (by law) in the planning system for federal roads the inclusion in the corresponding list of the Federal Roads Act;
- Federal roads planning area: To secure the construction of a federal road included in the list, the competent minister may declare the area marked in a map of the location that may be used for the later course of the federal road to be a federal roads planning area by issuing a decree. A requirement for the issuance of such a decree is that according to the status of the planning work and construction preparation to determine the course of a road, it may be expected or feared that changes to the area caused by construction work will render the planned road construction very difficult or more expensive in the foreseeable future. A federal roads planning area is legally binding in the sense that no new construction, additions or conversions may be carried out and no structures or changes to structures are permitted, although exemptions are possible.
- The determination of the course of a road by issuing an official notice (federal roads construction area): the content of the permit is essentially not a detailed plan that defines the exact size of the road including all building structures, but rather the official notice (only) defines the road axis by giving a rough verbal description making a reference to a map. The legal validity of the course of a road determined by an official notice implies that on the

land (federal roads construction area) affected by the future route of the road it is not permitted to erect new buildings, additions or carry out conversions and neither are structures of any kind permitted to be built or adapted.

The principal – technical – **planning and construction of federal roads** is done in the private sector by the federal roads administration, in particular by **ASFINAG**. The tasks of the Autobahnen- und Schnellstraßen-Finanzierungs-Aktiengesellschaft (ASFINAG) is the funding, planning, construction and maintenance of federal roads including the infrastructure required and necessary.

Navigation

Austria has relatively few waterways, but with the **Danube River** it is part of a central European transport axis for the transport by water of freight and goods. Due to its nature as part of an international transport network, the Federal Ministry of Transport, Infrastructure and Technology is responsible, but the operation and maintenance of the waterway is the competence of **Via Donau**. There is no conceptual planning for the enlargement of waterways.

Aviation

Aviation plays a role in spatial planning, in particular, in connection with **airports**, their requirements and impacts. Permits for airports may be granted taking into consideration **existing facilities** and their operation as well as capacities.

As **aviation law** does not have any planning instruments for (future) facilities, it is particularly the restrictions to use and construction that are of relevance for spatial planning in this context. **Safety zones** apply to the areas around airports with graduated safety levels and within which potential hindrances to aviation require a permit. The greatest restrictions apply to areas that are needed for flight manoeuvres when starting or landing, with respect to the height of buildings.

7.2.4 Energy law

Energy law basically **covers a wide range of sectors** and there are several instances of competence of the federal government and of the **Länder**. The competence for legislation and execution for power lines (**high voltage lines**) is divided between the federal government and the **Länder**:

- High Voltage Lines Act, if the lines cross two or more **Länder**, is the competence of the federal government.

- Other electricity lines are the competence of Art. 12 (1) no 5 Constitutional Act (the federal government is responsible for legislation on the principles, while the **Länder** pass implementation laws and are responsible for execution).

Decisive for ascertaining if the **Federal High Voltage Lines Act** (*Bundes-Starkstromwegegesetz, StWG*) applies or a **Land StWG**, is if the electricity lines cross one or at least two **Länder**. The regulations in the **Federal StWG** and in the **Länder StWG** hardly differ regarding the planning instruments.

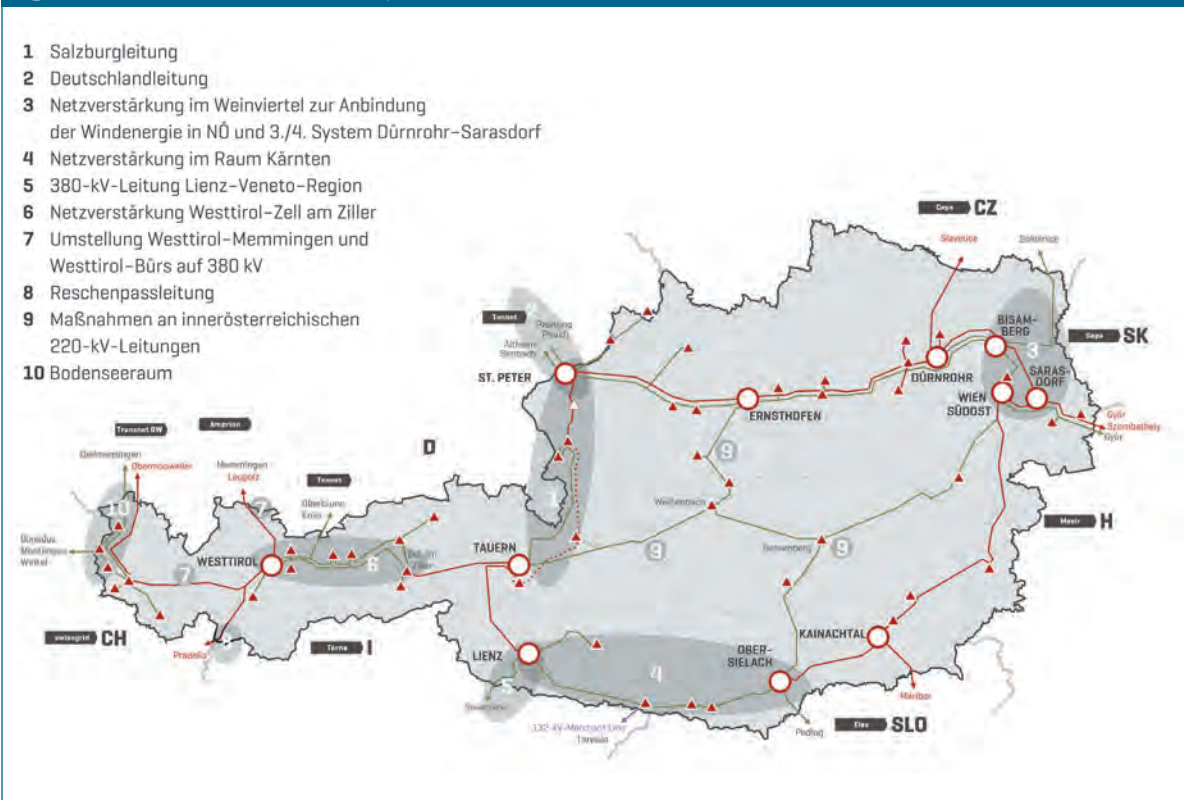
Pursuant to the **StWG** electricity lines are electric lines that serve to transport electric power, including the transformer substations and switching stations. The erection and operation of electric lines generally requires a permit from the authorities. Worthy of mention from the perspective of (local) spatial planning is the provision regarding the exercise of line rights in **StWG** according to which the line rights may only hinder the use of the land in line with the zoning to a minor extent.

The high-voltage line laws generally do not include sovereign planning instruments that are binding on developers of high-voltage lines or other planning entities. The planning initiative is generally the remit of the electricity grid operator. The planning provisions of the **StWG** are limited to requiring permits for (private) plans in individual cases. The provisions define the requirements for the permit to build and operate electric lines. The **StWG** generally does not include any options for protecting routes by issuing decrees or official notices in the case of conflicting uses or prohibiting the erection of routes.

The authorities have the possibility of requiring a pre-assessment in cases in which an application for a permit for a high-voltage line has been submitted and there are concerns that these electric lines will cause major infringements on public interests. The basis for the pre-assessment is a detailed description of the route. Within the scope of the pre-assessment all authorities and public entities that are affected by the planned electric lines must be heard. After completion of the pre-assessment, an official notice is issued that determines if and under what conditions the electric lines planned do not infringe on public interests.

Austrian Power Grid AG (APG) is the largest domestic power grid operator and is responsible for the erection and maintenance of an adequate grid infrastruc-

Fig. 18: APG Master Plan Projects 2012-2030



APG Masterplan 2012 – 2030. The chart shows the master plan projects 2012–2030 of Austrian Power Grid (APG).

ture. In accordance with its statutory responsibility, the transmission grids must be safe and reliable and adequate for future demand. An updated Master Plan 2030 exists that covers the planning period 2013 to 2030 and defines the APG target grid for 2030 and the required enlargement stages based on future power scenarios.

The **Grid Development Plan (NEP)** is mandated by law and the current version, NEP 2017, is based, among other things, on the long-term strategic plans of the APG Master Plans 2030 and the Ten-year Network Development Plan of ENTSO-E. The NEP contains information on key transmission infrastructure that must be enlarged within the APG grid and a list of investments already completed as well as projects that are to be implemented in the coming three years. Furthermore, the NEP also describes the grid planning for the next ten years (2018 to 2027) taking into account development trends in electricity management. The projects are categorised by national and international interests and grouped into grid network projects and grid connection projects. The grid network projects and grid connection projects are submitted for approval in the grid development plan provided the required project conditions are given and there is sufficient planning certainty.

Gas lines

The **Natural Gas Act (Gaswirtschaftsgesetz, GWG)**, which fundamentally changed the gas market system, contains provisions for the approval of natural gas line installations. The Austrian natural gas grid consists of distance lines and distribution lines, including the installations that are used for support.

The erection, enlargement, key changes and operation of **natural gas lines requires a permit** pursuant to the GWG from the **gas authorities**, regardless of any other applicable approval obligations. There are no regulations governing routes issued in the form of official notices.

The authorities may order upon request or ex officio a pre-assessment if an application is submitted for the temporary use of third party land or an application for a permit for a natural gas line has been submitted and it is feared that the natural gas line will cause major infringements to public interests – interests of other power utilities, land cultivation, forestry, water rights, spatial planning, etc. After completion of the pre-assessment, an official notice is issued that determines if, and under what conditions, the gas line planned does not infringe on public interests.

The **approval of a natural gas line** will be denied if the erection, enlargement or adaptation of the installations are contrary to the goals of the GWG or if a grid operator would be prevented from fulfilling its obligations that serve the common good and the reasons for the denied permit cannot be eliminated by imposing construction conditions.

The GWE governs the “**operation of grids**” and addresses the “long-term planning” in connection with “market area and market area managers” with the goal, among other things, of planning distribution facilities and achieving coherence with Community grid planning and the **coordinated grid development plan**. The market area manager has the task of preparing a grid development plan every year for a planning period of ten years in each case in coordination with the distance grid operators and taking into account long-term planning. Since the GWG took effect, Austrian Gas Grid Management AG (AGGM AG) has acted as market area manager. AGGM AG has the task of preparing at least once a year a long-term planning for the distribution area in the market area.

7.3 Sectoral Planning by the Länder

The Länder have their own competence for specific sectors, with the **State Roads Act** (Länder) as well as the Nature Conservation Act being of special interest from a spatial planning view. Restrictions to land use are defined through these sector-specific provisions and the restrictions are binding regulations for regional and local spatial planning.

Matters which are the competence of the Länder but do not contain any concrete planning or have a concrete spatial impact are not discussed in the following chapter, but one should bear in mind that there are themes that can nonetheless play an important role, e.g. **housing subsidies law**.

State (Länder) roads

All public roads that are not federal roads are deemed state roads, with legislation and execution being the competence of the Länder. The state roads laws group state roads into different categories and often the entity that built the road being a differentiation criterion.

Similar to the provisions of the Federal Roads Act, the planning of state roads takes place, on the one hand, through sovereign planning acts, in particular, the issuance of official notices and also decrees, and on the other, through private sector planning measures of the respective road administrations. Usually, road ad-

ministration for state roads is the competence of the Land, for municipal roads the respective municipality and for private roads the concerned group of persons.

→ **Inclusion in the list of roads:** In some Länder, state road planning starts with the inclusion of a road in a list of roads, thus constituting the zoning of a transport area as a public road.

→ **Routes Regulations:** In some cases, a preliminary procedure (in the form of decrees) for securing routes is in place for state roads (e.g. Burgenland, Upper Austria, Vorarlberg). The Land governments may declare roads to be designated as state roads by issuing decrees if there are plans to build these. On the whole, the routes regulations contain only rough descriptions of the road routes and their outer borders, which gives some leeway for the road approval proceedings.

→ **Road planning areas:** Almost all Länder have road planning areas defined by decrees in order to secure routes for planned road projects. Consideration must be given to the requirements for route determination when demarcating an area, for example, with a view to the requirement maintaining sufficient distances between the routes and settled land or protected areas under nature conservation law. It is not permitted to build new structures or additions or to erect plants or make adaptations to these in state road planning areas – with a few exceptions.

→ **Permit Procedures under Road Law:** The road laws of the Länder usually define permit procedures for the approval of road projects that are finalized by an official notice. The subject of approval procedures are the planning acts prepared by the respective entity maintaining the road. State roads are usually defined precisely within the scope of the approval procedures. If the respective Land does not define the course of the road by issuing a decree, the route is defined in approval procedures by official notice.

Nature conservation act

Nature conservation and landscape protection laws of the Länder aim to protect and to maintain the natural landscape as the basis of livelihood of people. In order to achieve the goals, nature conservation law includes protective measures (bans, permit procedures) as well as maintenance measures (preservation, design, financial aid for improvement measures and damage repair).

The main categories of the special protected areas subject to separate protection procedures are the following:

- **Nature conservation areas** – The characteristics include a complete or almost complete original state, a habitat of rare or endangered animals and plants, their cohabitation and other natural phenomena. Nature conservation areas which must be located outside built-up areas are designated to the strictest protection category and are subject to far-reaching prohibitions and restrictions.
- **Landscape conservation areas** – These may be protected by decrees issued by the Land government; the characteristics include beautiful and unique landscapes with a special significance for recreation or tourism and historical significance. The landscape conservation areas may – depending on the purpose of the protection – be subject to substantial restrictions, in particular, in connection with their use for building land.
- **National parks** are a special protected category and these are also protected by separate national park laws. When an area is declared a national park, this ensures that the nature areas and valuable protected landscapes of national and international significance are preserved including their representative landscape types, animal and plant habitats. The title “national park” is also a label that is assigned in accordance with the international IUCN categorisation.

The nature conservation and landscape protection laws of the Länder contain **general protection provisions** for ecologically sensitive areas and landscapes.

In these areas, the measures listed in the law stipulate special permit procedures and the prohibition of severe interventions, also if the areas are not protected as nature conservation and protected landscape areas by decrees issued by the Land governments (e.g. Alpine regions, glaciers, wetlands, moors, swamps, river basins).

With the aim of encouraging proactive nature protection, some nature conservation laws include instruments and measures to preserve the landscape:

- **Maintenance of especially restricted/protected areas:** Landscape protection includes the termination or elimination of structures erected without consensus or other detrimental management measures. Additionally, property owners may be obligated to accept maintenance measures on areas at risk.
- **Landscape plans, landscape framework plans** have the task of depicting the given spatial circumstances and describing the measures required to achieve the status aimed for. These may concern

the entire territory of the Land, parts of it or protected areas, and may designate areas that are suitable for being declared special protected areas.

- **Landscape and nature conservation funds:** In some Länder, there are landscape or nature conservation charges for interventions that have lastingly detrimental effects on the landscape and on the natural balance. Not all interventions that require a permit under nature conservation law are subject to charges. Nature and landscape conservation charges are collected exclusively by the Land and the proceeds are transferred to the respective fund and are earmarked for the special purpose of landscape protection.

7.4 Cooperation and Information Obligations in the Spatial Planning Laws

The growing **cooperation and information requirements** between the different planning entities are addressed in the individual spatial planning laws. In connection with **federal matters**, the spatial planning laws usually stipulate that the competence of the federal government is not to be affected by the provisions of spatial planning law.

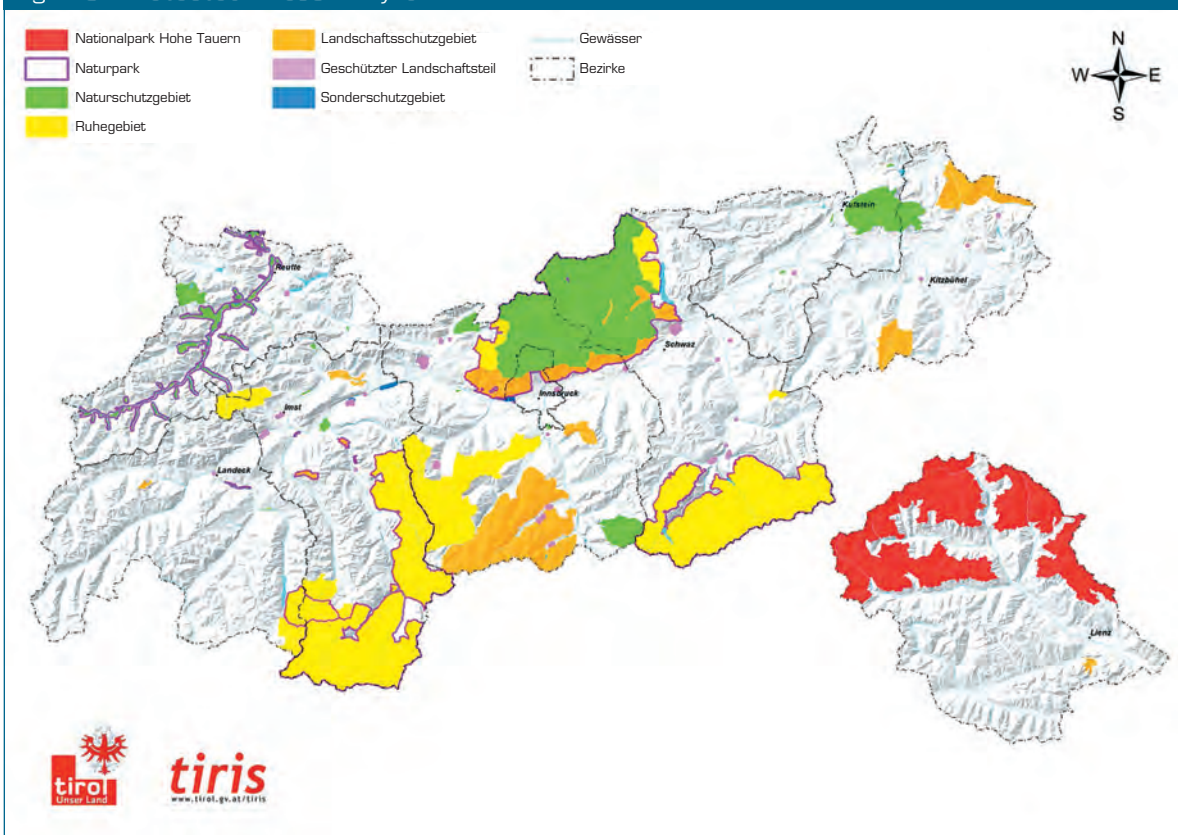
Apart from the separation of areas of competence by law, the aim is often to achieve a **harmonisation with federal laws** and to define cooperation clauses. The **mutual consideration rules** are intended to help avoid any use overlaps or conflicts between the different sectoral areas and planning bodies by applying objective consideration. The provisions in the individual spatial planning laws differentiate **general harmonisation mandates** and individual spatial planning instruments. The intentions are usually the same: the plans of the federal government should be included in the respective planning considerations. In some cases (e.g. Styria), the mutual consideration rules mention not only the federal plans in general, but also other entities under public law as well as other planning bodies.

Some Länder (Styria, Tyrol) make a difference in this context between the plans and the measures of the federal government that

- **must be considered** due to the areas of competence defined by law, and
- those which (only) **should** be taken into **consideration**.

Most spatial planning laws contain a general obligation to disclose and provide information – with

Fig. 19: Protected Areas in Tyrol



Land Tyrol, TIRIS

substantial differences. While some spatial planning laws define few obligations to disclose information, other Länder have far-reaching and mutual obligations. On the one hand, the provisions may regulate that the **Land government must be informed** in time by the federal government, by municipalities, associations of municipalities, public entities and other planning entities of any spatially-relevant plans and measures. On the other hand, some Land governments agree to provide information on spatially relevant plans and measures to the municipalities and the competent federal authorities. Spatial planning laws tend to stipulate, of course, which information is to be provided to the Land governments (and municipalities), while provisions on the obligation to provide information imposed on Länder and municipalities are not as extensive in the spatial planning laws.

Pursuant to § 6 (2) Styria ROG, the federal government, the municipalities, the other territorial authorities under public law as well as other planning entities and enterprises of special significance are under the obligation to provide information to the Land government upon request as required for ascertaining the status quo. The obligation to provide infor-

mation applies accordingly in Styria also to ascertaining the status quo by municipalities.

Also in other Länder, the **municipalities** usually have the right to be informed of spatially-relevant plans and measures of the Land and of the federal authorities, and the municipalities are also under the obligation to report to the Land government and federal authorities on municipal planning activities.

The **far-reaching information** obligation is set out in § 3 TROG according to which not only the entities of the Land and the municipalities as well other entities under public law are must provide information to the Land government on spatially-relevant plans and measures, but also other public and private planning entities are under the information disclosure obligation. In this manner, owners of plants (Seveso) are obligated to provide information on potential hazards at plants.

7.5 Regional Spatial Planning and Regional Planning

Based on the distribution of areas of competence in the Constitution that assigns general spatial planning

to the Länder (and sectoral planning tasks to the federal government), the individual Länder are responsible for legislation. In all Länder, spatial planning is recognized as task of the state and administration in the interest of the public. All Länder – with the exception of Vienna – make a difference between **regional (überörtliche Raumplanung) and local spatial planning (örtliche Raumplanung)** even though some Länder (Upper Austria, Salzburg, Tyrol) have additionally strengthened the regional level by introducing **regional associations**.

Generally speaking, **sovereign regional spatial planning** has the task of defining the regional objectives based on the spatial planning principles and objectives as well as on the results of the ascertainment of the status quo and to define the required measures. Regional spatial plans define spatial planning goals and measures at the Land or regional level, and define measures of interest for these levels.

The general **legal effectiveness** of regional planning measures applies mainly, of course, to the binding definitions issued by decree. In accordance with the hierarchy of the planning system, the sovereign spatial plans at the Land level also make the sovereign and private sector measures binding for the **Land** itself. The main parties addressed by regional spatial plans are the municipalities whose local planning activities must be in conformity with the regional planning. If measures are not defined by the issuance of a regulation, the legally binding effect is reduced. Measures in regional spatial plans that are not legally binding may be viewed as recommendations, orientation help and non-binding requirements for municipal planning activities that must be considered when attempting to achieve a balance of interests.

7.5.1 Basic research and spatial planning land registry

Spatial planning laws generally stipulate **the collection of data**. Apart from data relating to the **current status**, data indicating **future developments** must usually also be gathered. The Länder impose the obligation on the **Land governments**, and in some cases, also on the **municipalities** to collect data on the natural, economic, social and cultural situation and on the respective changes. For example, pursuant to Burgenland's spatial planning law (§ 3 Bgld RplG), the Land government must investigate the status of the region and its development to date as well as possible future trends for the purposes of spatial planning by analysing the natural, economic, social and

cultural conditions. Pursuant to spatial planning law in Styria (§ 6 Stmk ROG) the Land government and the municipalities must record and investigate the status of the region, its development and factors of influence as a basis for their planning measures. This basic research must be kept up to date at all times.

In some Länder, the systematic recording of basic data for spatial planning must be kept by the Land government in a **Spatial Planning Land Registry**, with the relevant provisions being almost identical in the respective spatial planning laws. The Spatial Planning Land Registry must contain all **relevant data** for regional and for local planning. Spatial laws in Upper Austria (§ 10 (1) Oö ROG), for example, stipulate that in order to record the planning data essential to spatial planning and for the execution of the tasks of regional spatial planning, in particular, spatial research, the office of the Land government must keep a Spatial Planning Land Registry. Generally, the Spatial Planning Land Registry must be made available to the general public for inspection at the **office of the Land government** during office hours.

Pursuant to spatial planning law in Lower Austria, (§ 3 (3) NÖ ROG), the Land government must record the basic data of relevance for spatial planning in a **geographic information system**. The office of the Lower Austria Land government must in any case keep records of all local spatial planning programmes. In accordance with the Vienna Building Code (§ 2a (2) WBO), the city administration must create and keep a **database** that records data on the plots of land and on buildings required for urban planning purposes.

On the basis of the statutory provisions, all Länder maintain a Spatial Planning Land Register or a geographic information system (e.g. KAGIS, DORIS, VOGIS, SAGIS, TIRIS) that contain, among other things, the following data:

- Map materials for planning (aerial photos, etc.);
- Valid regional and local spatial plans, in particular, the zoning plans of the municipalities;
- Regional restrictions to use based on federal and Land laws;
- Location and capacities of regional infrastructure facilities;
- Location, type and size of protected areas and hazard zones.

The map service, *tirisMobile*, for example, permits selective access in Tyrol to the geographic information of the Land also via mobile end devices (see: <https://maps.tirol.gv.at/tirisMapsMobile/>).

Fig. 20: Thematic areas of tirisMobile



Land Tirol, tirisMobil

Overall, the **volumes, diversity and accessibility of data** has increased enormously in the past few years, which may serve to make basic research and the consideration of interests in regional and local spatial planning easier based on this research. Thus, for example, in some Länder (Upper Austria, Salzburg) an evaluation of soil functions has been implemented and is available to the public in the information systems of the Länder (e.g. Doris, Sagis). The relevant **soil function maps** make specialised information available to the municipalities and local planners to give them a sufficient basis of knowledge for reaching planning decisions on soil as a protected good in general and on high value farming land in particular.

An example of complex and sophisticated basic materials available for the Alpine region of Vorarlberg is the **white zone inventory**. Before the backdrop the increasing use of land for tourism infrastructure, roads and settlement development, the white zone inventory pursues the goal of recording original Alpine landscape areas that still exist, cultivated areas and sparsely settled Alpine areas and to secure these as so-called white zones for the long term. The **white zone inventory** provides a comprehensive description of nature landscapes and cultivated areas with sparse development in Vorarlberg including their uses to serve as a basis for planning, especially, for spatially-relevant development. Use sensitivity in the different zones (core zones, buffer zones, enlargement zones) is assessed and the areas are demarcated.

7.5.2 Regional diversity of instruments

Regional planning (“überörtliche Raumplanung”), which basically covers planning areas ranging from municipalities to the Land level, features several **planning types**. The instruments include a broad spectrum of spatially-differentiated goals and measures for the different sectoral themes. Over the decades, various instruments have proven useful, and although the Länder use a **similar system**, they define **instruments and priority areas** autonomously. A comparison of regional planning instruments shows that it is neither sovereign planning instruments exclusively nor solely informal spatial plans that dominate in planning at the regional level. The Land governments employ both **binding and informal planning** and, in some cases, regional spatial plans combine informal and conceptual measures with sovereign and binding ones. **Diversity** in regional spatial planning has **increased** significantly overall.

The Länder determine the instruments of regional planning in their spatial planning laws and define the **planning types**, contents, legal effects and the procedures for their preparation or amendment. Generally, the Länder have defined the following binding instruments for regional planning, although **deviations and supplements** are possible:

- **Spatial planning** or **development programmes of the Länder** that cover the entire territory of a Land,
- **Regional spatial planning** or **development programmes** for individual planning areas,
- **Sectoral spatial planning** or **development programmes** for certain sectors.

Non-binding planning documents are quite significant for regional spatial planning and these may differ widely as regards their concepts, contents, structure and spatial aspects. Informal planning instruments are not mentioned in all spatial planning laws as specific planning types, although the regional planning bodies sometimes use comprehensive concepts, strategies, visions, spatial perspectives, policy plans, and similar materials. The legislator stipulates relatively **few structural or content requirements** for the informal planning instruments mentioned in laws, but rather only points out the informal instrument as additional planning options for the Länder or regions.

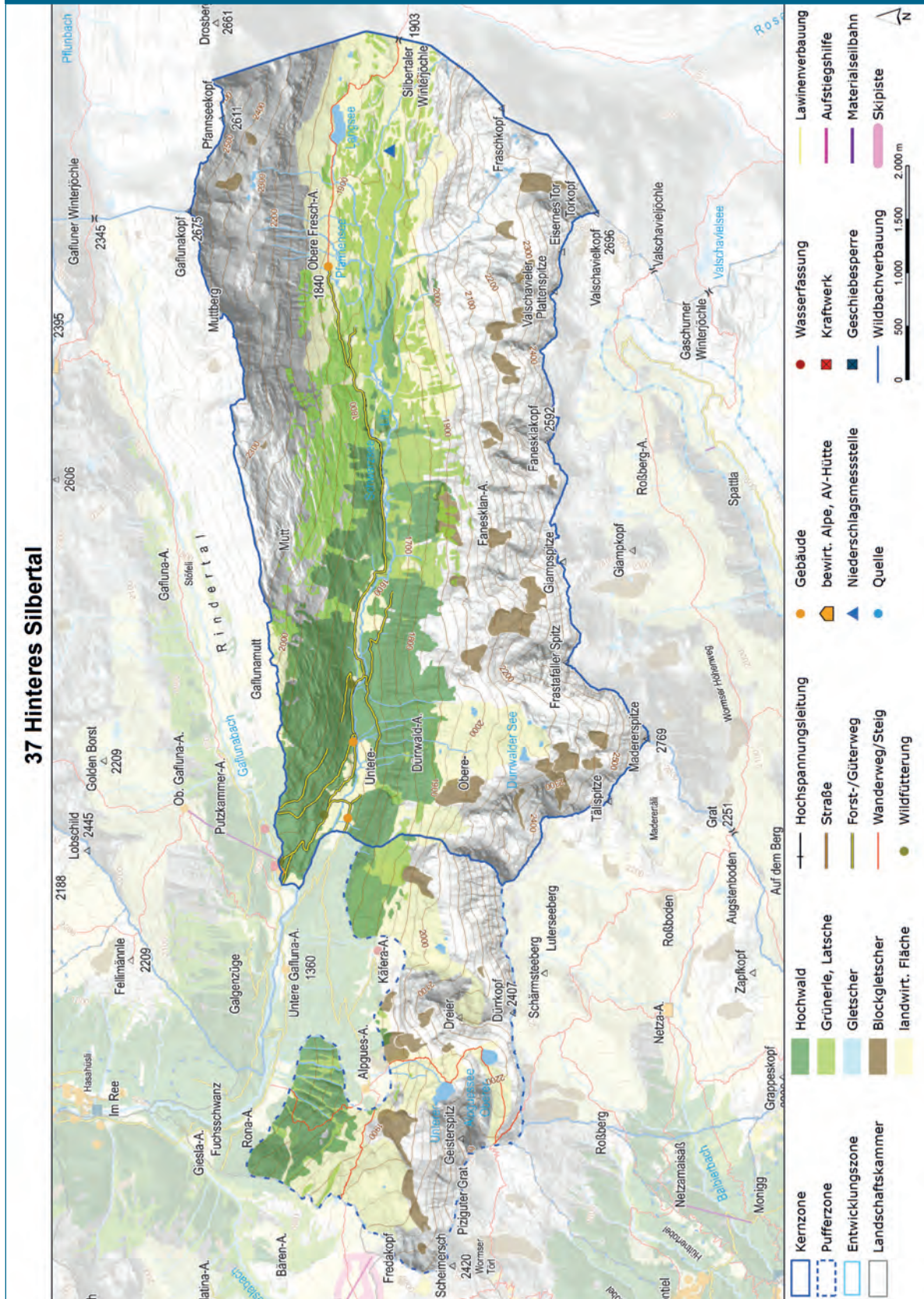
The overview of the **regional planning instruments defined by law** shows that the Länder in their role as legislator have defined a differentiated set of instruments for the regional level. The statutory planning

Tab. 04: Instruments of regional spatial planning in spatial planning laws

Federal state (Land)	Applies to entire Land	Regional	Sectoral	Conceptual Instruments
Burgenland §§1-10 Bgld RplG	Landesraumordnungsplan (§ 2a) Entwicklungsprogramm (§ 7)	Entwicklungsprogramm für einzelne Landesteile (§ 7)	-	
Carinthia § 3 Ktn ROG	Entwicklungsprogramme für das gesamte Landesgebiet (§ 3 Abs. 2)	Regionale Entwicklungsprogramme (§ 3 Abs. 3)	Sachgebietsprogramme (§ 3 Abs. 4)	
Lower Austria § 3 ff NÖ ROG	Raumordnungsprogramme für das Land (§ 3 Abs. 1)	Regionale Raumordnungsprogramme (§ 10)	Raumordnungsprogramme für Sachbereiche (§ 11)	Überörtliche Raumordnungs- und Entwicklungskonzepte (§ 12) Regionale Leitplanung (§ 12)
Upper Austria § 11 Oö ROG	Landesraumordnungsprogramme (§ 11 Abs. 3)	Regionale Raumordnungsprogramme (§ 11 Abs. 3)	Raumordnungsprogramme für Sachbereiche (§ 11 Abs. 3)	Regionale Entwicklungsleitbilder (§ 4 Abs. 3) Interkommunale Raumentwicklungskonzepte (§ 6)
Salzburg § 8 ff Slbg ROG	Landesentwicklungsprogramm (§ 9)	Regionalprogramme (§ 10)	Anhänge zu raumbezogenen Sachbereichen im Landesentwicklungsprogramm (§ 9 Abs. 1 letzter Satz) Standortverordnungen für Handelsgrößbetriebe (§ 14)	Regionale Entwicklungskonzepte durch Regionalverbände (§ 10)
Styria § 11 ff Stmk ROG	Landesentwicklungsprogramm (12)	Regionale Entwicklungsprogramme (§ 13) teilregionale Entwicklungsprogramme (11 Abs. 4 Z 3)	Sachprogramme (§ 11 Abs. Z 2)	Entwicklungsleitbilder (§ 4 und § 5 Landesentwicklungsprogramm)
Tyrol § 7 ff Tirol ROG	Raumordnungsprogramme für das ganze Land (§ 7 Abs. 4)	Raumordnungsprogramme für Planungsgebiete (§ 7 Abs. 4)	Raumordnungsprogramme für Fachthemen (§ 7 Abs. 3) Raumordnungsprogramme für EKZ (§ 8)	Raumordnungspläne (integrale oder sektorale Pläne) (§ 12)
Vorarlberg § 6 ff VlbG RplG	Landesraumpläne für das gesamte Landesgebiet (§ 6 Abs. 2)	Landesraumpläne für einzelne Landesteile (§ 6 Abs. 2) (§ 6 Abs. 2)	Landesraumpläne für bestimmte Sachbereiche	-
Vienna Wiener Stadtentwicklungs-, Stadtplanungs- und Baugesetzbuch	-	-	-	Stadtentwicklungsplan und Fachkonzepte

Own compilation

Fig. 21: White Zone Inventory, No. 37 Hinteres Silbental (Vorarlberg)



instruments for regional planning are not implemented consistently by all Länder, of course. Thus, a look at regional planning in Austria requires a differentiation with respect to the planning instruments prescribed by law and **the planning instruments actually implemented** by the Länder and regions. While some of the Länder are extensively engaged in spatial planning at the Land and regional level, other Länder are more restrained. Although a general trend towards the frequent preparation of spatial plans is emerging, regional objectives and measures do not always cover entire territories. Additionally, some Länder are more restrained about reviewing existing regional spatial plans, while other Länder regularly review their regional planning documents.

In a Länder comparison, a difference must be made first by the **regulatory density** by specific themes regarding the content of regional spatial plans. Thus, some Länder define specific sectoral issues directly in the spatial planning laws, while other Länder include the corresponding requirements in their regional spatial plans, though the planning types used may differ. A comparison of the **permit system for shopping centres** in the spatial planning laws shows, for example, that in many Länder the regulatory systems and regulatory density varies widely and local spatial planning decisions may be influenced very differently. Thus, the main planning requirements for municipalities regarding shopping centre sites are **regulated primarily by legislation**: for shopping centres in Burgenland, the permits are issued by official notice of the Land; in Lower Austria, shopping centres are permitted mainly in centre zones and within built-up areas of towns, and in Vienna there is a spatial compatibility assessment for shopping centres. Carinthia, Styria and Tyrol have put the legal requirements for shopping centres into concrete terms in the form of **sectoral spatial planning programmes**; moreover, Tyrol defined additional core areas in a regional development programme (Vorarlberg defined similar reserved zones). Upper Austria, Salzburg and Vorarlberg have (supplementary) **site regulations** for shopping centres that are issued on a project basis by the Land government and give the municipalities the option of defining corresponding zones for shopping centres.

Another example for the different instruments used for the implementation of planning tasks and for the divergent use of instruments is the way the Länder **deal with flood protection**. Lower Austria and Upper Austria have defined (new) detailed building land zoning bans in their spatial planning laws, while

Burgenland has defined a zoning ban for hundred-year flooding zones in the Land development programme. Styria has a detailed **sectoral programme for the flood-proof development of settlement areas** (with supplementary guidelines) and Vorarlberg has imposed the planning regulation “**Blauzone Rheintal**” through a Land spatial plan. In addition to the different laws stipulated by the Länder, planning by the federal government is also highly relevant in connection with flood protection, such as the natural hazards maps prepared by the different service departments pursuant to water and forestry laws. Mention must be made in this context to the **flood risk management plan** which contains measures compiled by BMNT designed to reduce the risk of flooding.

As regards the contents, a **trend** is emerging (again) in some Länder of “**big plans**”. There is an increase in binding spatial plans of the Länder as well as strategic concepts for the regional level that address a large number of sectoral matters and spatially-specific requirements and also coordinate these with each other. Despite the growing popularity of interdisciplinary approaches to planning and solutions, the content of the regional spatial plans reveals a **concentration on the core fields of spatial planning** with a spatial impact.

The **higher importance given to regions** is shown in some Länder by the preparation of regional development programmes and non-binding regional concepts or policy plans. Apart from this, sectoral regional plans are prepared that are usually dedicated to a single theme – and in some cases with detailed and specific conditions

7.5.3 Land development schemes and programmes

Some Länder have adopted **spatial planning programmes** that are described as essential planning instruments for the Länder in all spatial planning laws. These central planning instruments of the Länder contain binding and far-reaching spatial regulations for the Land level. The cooperation and **coordination** of all spatially-relevant development objectives, planning goals and steering methods of a Land are compiled in a binding planning document that forms the foundation for the future development of the Land.

The Land development programmes generally cover the entire territory of the Land. All of the binding Land development programmes contain a quite **comprehensive catalogue of objectives as well**

LAND DEVELOPMENT PROGRAMMES

- **Burgenland Land Development Programme (LEP) 2011:** In Burgenland, regional spatial planning is implemented primarily through a land development programme that consists of a policy plan “mit der Natur zu neuen Erfolgen” (with nature to new achievements) (objectives and foundations), a strategy for the spatial structure (overarching objectives and implementing requirements that put the policy plan into practice) and a regulation plan – LEP 2011 (binding regulation consisting of a text part and a map).
- **Upper Austrian Spatial Planning Programme, LAROP 2017:** Legislation in Upper Austria (LAROP 2017) combines the regulation plan, development plan and regional development into a strategic plan for Upper Austria.
- **Salzburg Land Development Programme 2003:** The Land development programme includes comprehensive principles and guidelines for planning by the Land that are grouped by the different thematic areas and described in concrete. At present, work is under way to review the Salzburg Land development programme.
- **Styrian Land Development Programme, LEP 2009:** A key theme in the Land development programme is the **definition of regions** that replaces the planning regions at the district level in place up to now.

The most recent spatial planning programme is the **Upper Austrian LAROP 2017** that defines the objectives of spatial planning at the strategic level and the measures needed to achieve these at

the Land level. The Upper Austrian LAROP 2017 concentrates on the **core** spatial planning **competencies** and defines special goals for subregions with respect to spatial structure and development. The main contents of the LAROP Upper Austria 2017 are the five priority objectives (1. promote a viable economic and working world, 2. secure a local and regional supply of basic services, 3. promote settlement development accessible by public transport, 4. secure natural resources and upgrade landscapes, 5. promote the regional scope of action) and the definition of spatially-differentiated areas of action that are demarcated primarily by functional criteria and that are characterised by needs for action. This approach generally aims to support a **regional development based on action** and to encourage polycentric spatial development and to describe in concrete terms the development visions for the main regions of Upper Austria. LAROP distinguishes **five types of areas of action** – in which there is a special need to take action – for the implementation of spatial planning and regional development objectives: Core settlement areas with their related surroundings and centres, axis areas, rural stabilisation areas, landscapes with potential for tourism and cross-border cooperation areas.

The **central areas** defined in LAROP including the small centres are designed to encourage a functional distribution of space and tasks in the spirit of small regional polycentric structures and consequently to support cooperation among municipalities.

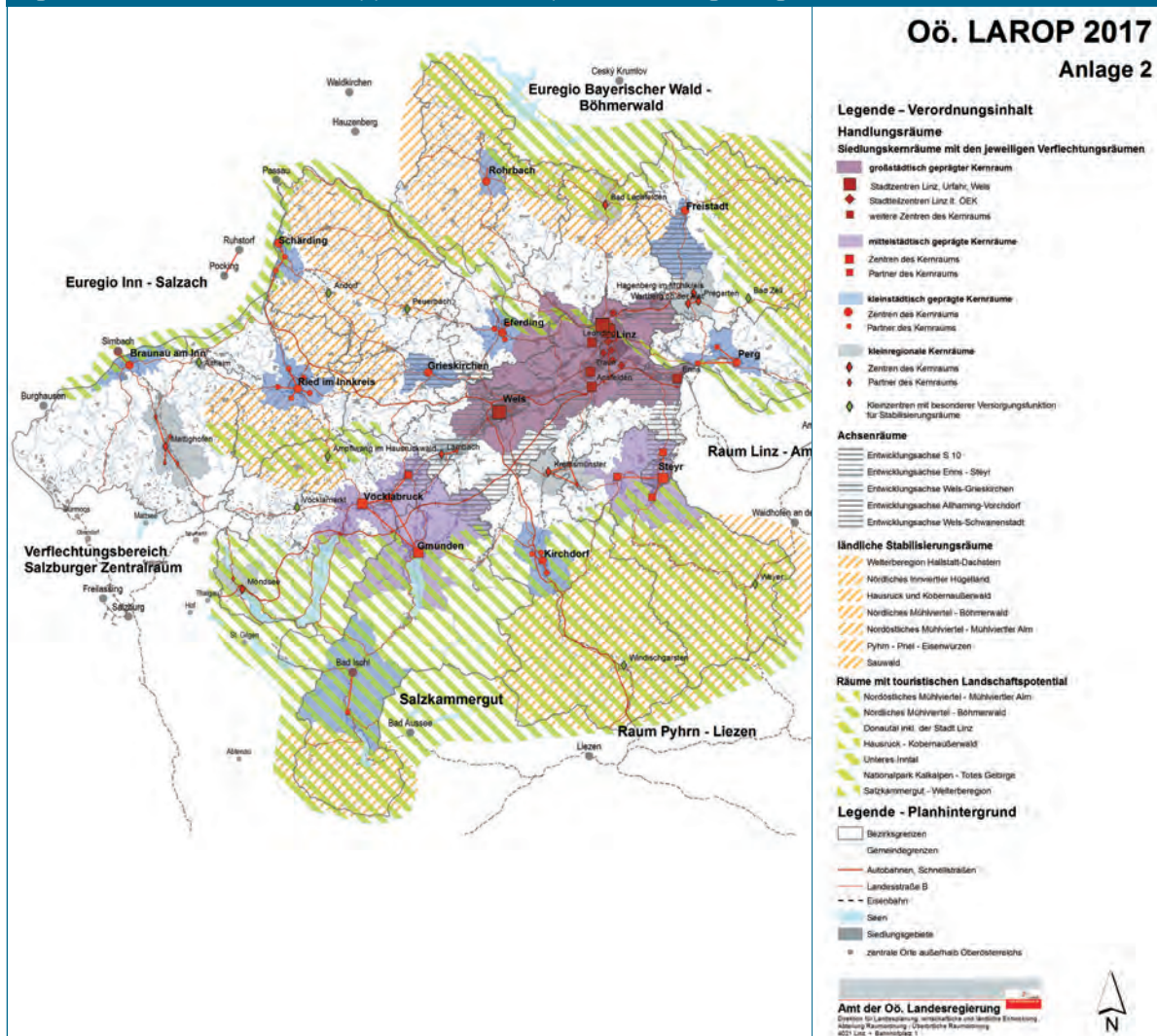
as the relevant **Land development measures** grouped by sector, and also, in some cases by planning area. The Land development programmes are long-term planning documents with a strategic steering and coordinating function. To this end, **objectives** are defined for the development of a Land as well as a **basic framework** for the spatial structures aimed for. As regards **measures**, the development programmes of the Länder (also) contain binding determinations that are valid not only for a Land itself, but also for the regions, and in particular, for the municipalities. The development programmes of the Länder therefore create a link between the statutory requirements, on the one hand, and the implementing instruments of spatial planning at the regional and municipal levels,

such as the regional spatial planning instruments and the local development concept and the zoning plan, on the other.

Apart from - or instead of - the sovereign spatial plans, the Länder have prepared various **informal and conceptual planning instruments** for, in some cases, the entire territory of the Land, often featuring strategic tasks and providing guidance intended as recommendations.

- **Lower Austria Land Development Concept, 2004:** The Lower Austria Land development concept is a document that sets out the fundamental principles to be used for strategic and coordinating functions at the top-most level and contains a

Fig. 22: Areas of action in Upper Austrian Spatial Planning Programme "LAROP 2017"



Land Upper Austria

commitment to integrated spatial development. It provides information on the basic features of the spatial structure aimed for and on the principles and objectives of development for the Land.

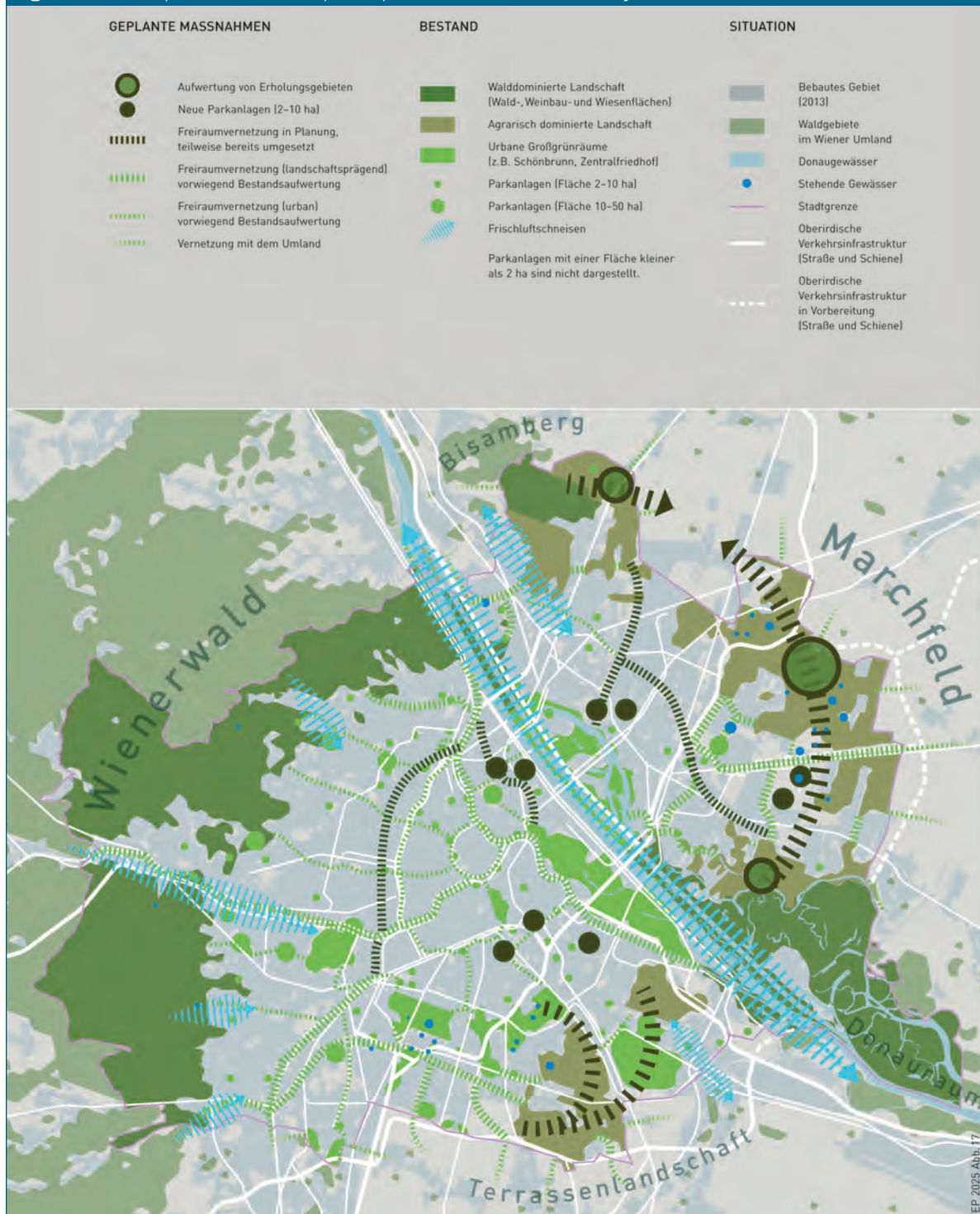
- For the strategic steering of urban development, the City of Vienna uses mainly **diverse sectoral concepts** as well as the **Urban Development Plan Stadtentwicklungsplan (STEP)** covering periods of 20 years. The current **STEP 2025**, which was adopted by the Vienna municipal council in 2014, is primarily strategic in nature and defines the direction urban development is to take until the year 2025. The three chapters of STEP develop a **visualisation of the future of the city** preceded by a section entitled “Wir leisten uns Stadt – neue Instrumente der Stadtentwicklung” (We can afford a city – New Instruments of Urban Development):
- “Wien baut auf – Qualitätsvolle Stadtstruktur und vielfältige Urbanität (Vienna builds –

high quality urban structures and diversity in urbanity);

- “Wien wächst über sich hinaus – Wachstum und Wissensgesellschaft transformieren die Metropolregion” (Vienna outperforms itself – growth and knowledge society are transforming the metropolitan region”);
- “Wien ist vernetzt – Weitsichtig, robust und tragfähig für Generationen” (Vienna is networked – visionary, robust and sustainable for generations).

The **three main chapters** address eight priority themes (the built city, space for urban growth, centres and the spaces in between; business-science-research, the metropolitan region; mobility diversity, free space: green and urban and social infrastructure). STEP 2025 is supplemented by downstream sectoral and detailed concepts that are presented to

Fig. 23: Concept Green and Open Spaces - STEP 2025 City of Vienna



City of Vienna

the Vienna municipal council to be passed into law and which define commercial development zones or by-pass roads, e.g. the green belt, in coordination with other concerned parties.

→ **Styria Land Development Master Plan:** The Land development master plan is a strategy of Styria not passed into law that serves as a development

policy supplement to the Land development programme.

→ **Future Region Tyrol, 2011:** The objective of “ZukunftsRaum Tirol” (Future Region Tyrol), which was adopted in 2011 by the Tyrolean Land government as a spatial plan, is a strategically-oriented, forward-looking and coordinated spati-

al development plan for the Land for a period of around 10 years.

→ **Spatial vision for Vorarlberg:** At present, work is under way on a spatial vision for Vorarlberg 2030 intended to steer the direction of development in the Land by defining the strategic scope of action. The intention is to make it a binding plan.

In many cases, non-binding instruments serve to facilitate the **informal coordination** of development visions and aims between the Land, regions and municipalities. Planning statements and contents do not necessarily stick to the assigned areas of competence or administration, but rather are often – for thematical and functional reasons – overlapping as regards competence and territorial authorities. The coordination between the various sectoral areas and the concerned planning bodies is one of the strong points of informal instruments.

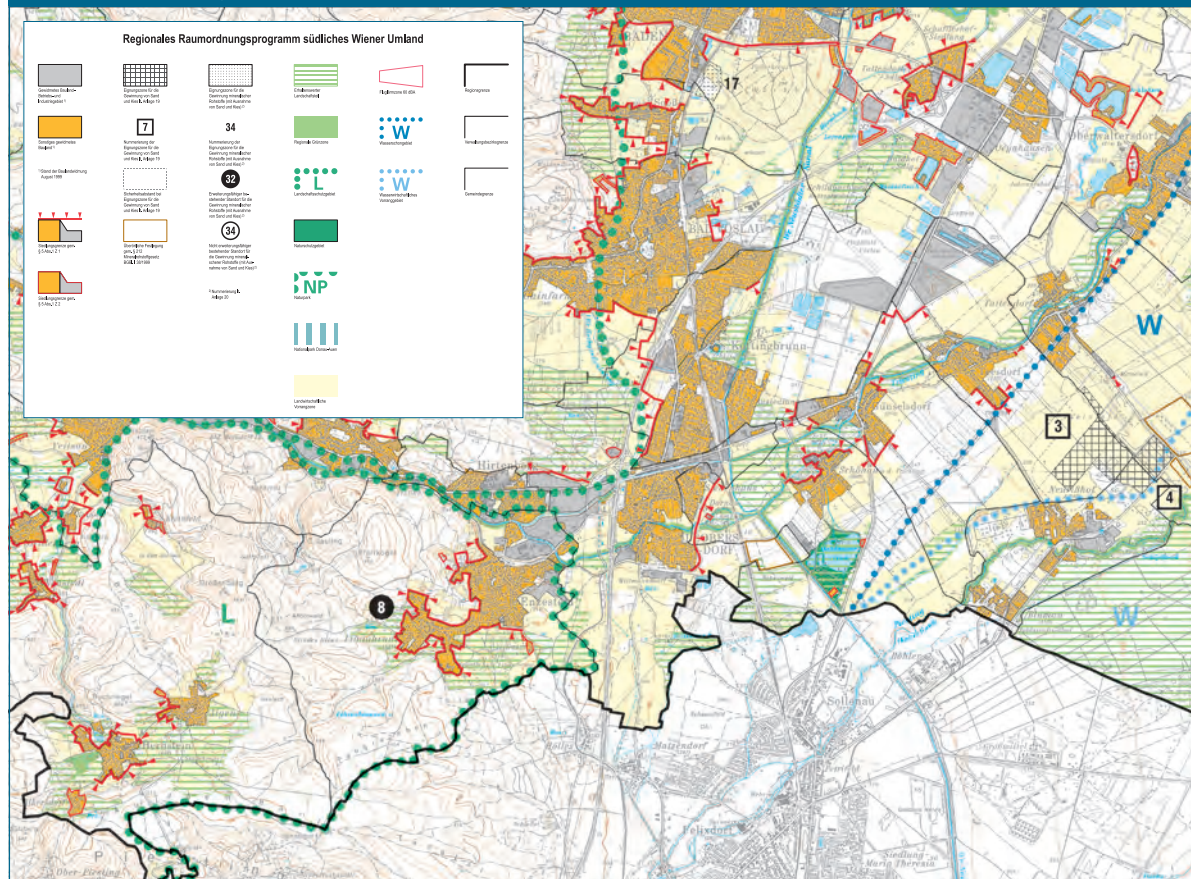
As the strategic planning instruments are also decided in some cases by the Land governments, their **effect in practice** should not be underestima-

ted even though they are not passed as regulations, because these concepts and strategies address important public interests that are taken into consideration when reaching planning decisions and in measures affecting private sector administration tasks.

7.5.4 Development programmes for regions

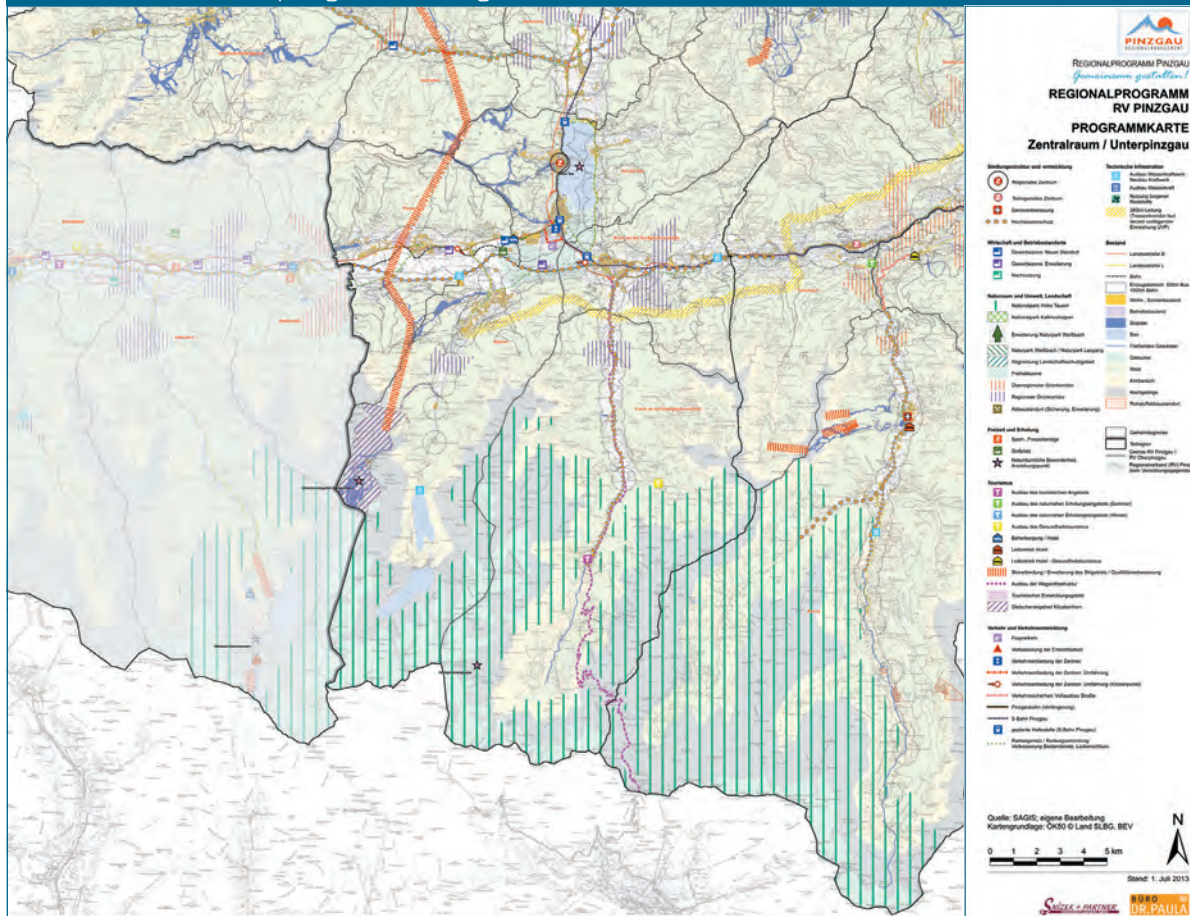
The regional planning level is gaining significance in spatial planning. First, it is becoming clear that many spatial and planning challenges cannot (or no longer) be resolved by the individual municipalities themselves, also considering the growing functional interdependence. Second, the pressure to take action at the regional level is growing in the case of many spatially-relevant measures in which regional interests predominate. In this context, all Länder use regional development or spatial planning programmes as planning instruments to implement regional spatial planning, with the regional spatial plans – unlike the sectoral plans – usually including **comprehensive plans for several sectoral areas**.

Fig. 24: Excerpt from the regional spatial planning programme southern catchment area of Vienna, Sheet 76 Wr. Neustadt North (Lower Austria)



Land Lower Austria

Fig. 25: Section of the programme map of the Regional Programme for Pinzgau, Zentralraum/Unterpinzgau (Salzburg)



Land Salzburg

Organisationally, in some Länder it is no longer just the Land government that is the responsible planning body, but the drafting – not the act of making it binding as a regulation – is the responsibility of the region (or regional associations).

The tendency is supportive of regions in their function as planning bodies with competence for more than one municipality so as to foment **intercommunal cooperation** in planning measures. Regional planning is a joint task of the Land and of the regional associations in the Land Salzburg, for example, and is located in the planning hierarchy between planning by the Land and local spatial planning. The regional associations are a separate planning level with the possibility of drafting regional programmes and regional development concepts which gives them two important planning instruments for implementing regional objectives. Regional development concepts may also often be prepared for cross-border regions.

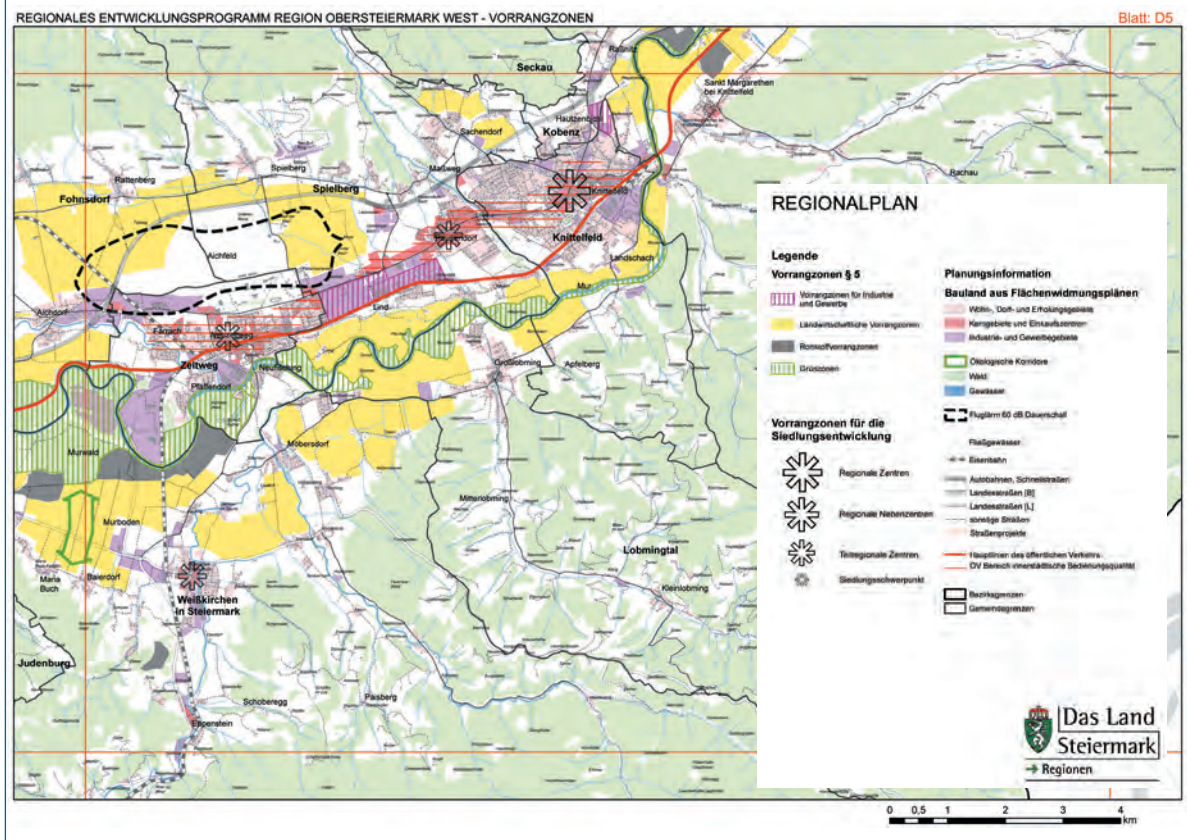
The regulation of spatial planning and the mandatory regional plans, concepts and programmes does not

necessarily mean that regional planning instruments were or are being prepared **extensively** in every Land. While spatial planning regulations for the instruments of regional planning in the Länder are similar, the concrete implementation of the requirements varies widely. Thus, there are Länder that by excluding sectoral planning can very well focus on the regions:

- no binding regional plans exist (e.g. Tyrol, Vorarlberg),
- have passed one or several regional plans into law (e.g. Burgenland, Upper Austria),
- have passed several regional plans into law (e.g. Carinthia, Lower Austria),
- have passed into law regional plans that feature far-reaching (almost complete) territorial coverage (e.g. Salzburg, Styria)

As regards the **date of creation** of regional plans, mention is made of Carinthia as an extreme example whose regional development programme originates mostly in the 1970s, or in Styria whose regional development programme has been newly drafted and passed as a regulation for seven planning regions.

Fig. 26: Excerpt from the priority zones map of the Regional Development Programme Obersteiermark West (Styria) with legend



Land Styria

The **planning contents** of the regional spatial plans are very divergent and depend on the respective spatial situation and sector themes of relevance, the specific planning culture and the political will to steer development. For example, regional spatial planning programmes in Lower Austria are restricted to objectives and measures relating to natural space, settlement development and the extraction of raw materials, and define regional settlement boundaries in plans and reserved zones for sand and gravel. In the respective map presentations, the settlement boundaries predominate (red lines with red triangles) – apart from the extensive markings indicating federal and Land planning or restrictions.

Other regional spatial planning plans are much more extensive and address a **much larger number of regionally-relevant themes**. Thus, for example, the regional spatial planning programme for Pinzgau, which was prepared in 2014 by the relevant planning region and passed into law by the Salzburg Land government, defines as a basis for further development the functional breakdown of the area. Based on this, objectives, measures and recommendations are defined that relate to the themes of settlement

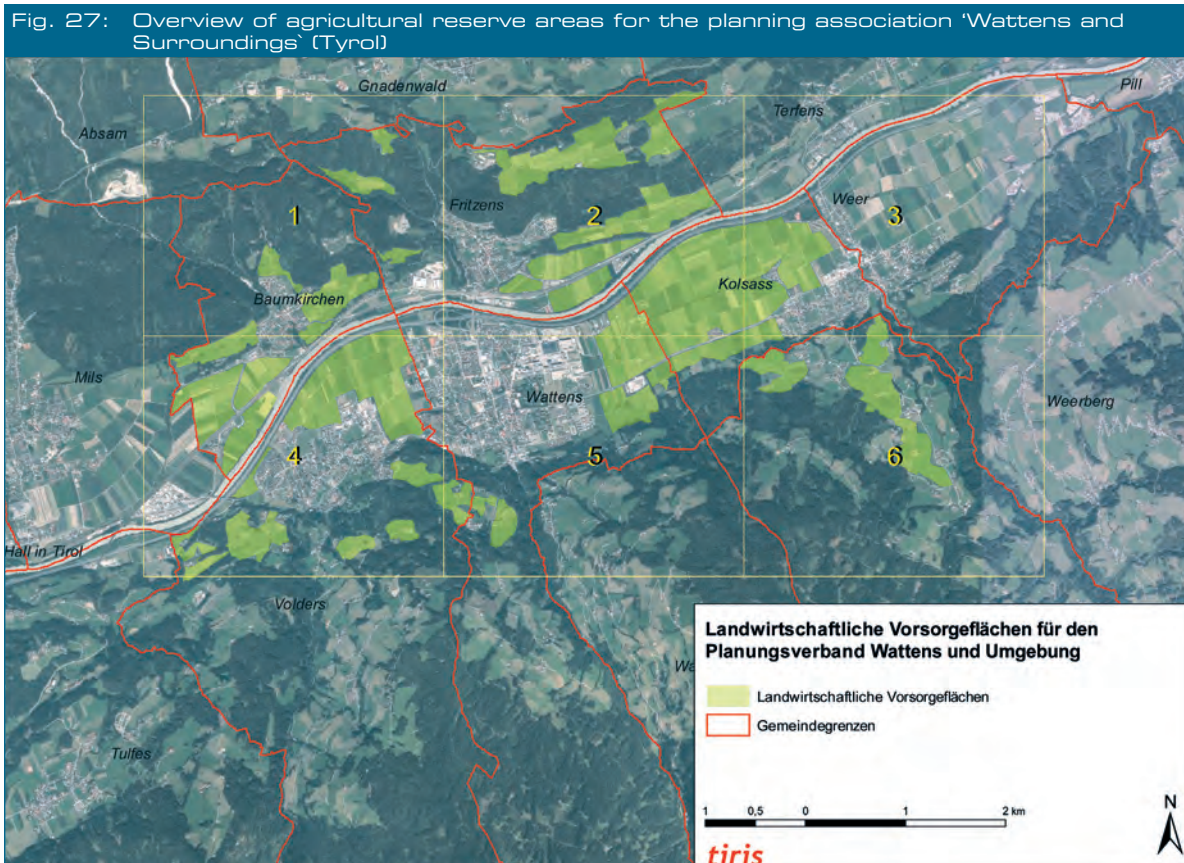
structure and development, economy and sites for industry and commerce, farming and forestry, natural space and environment, landscape, recreation, tourism, transport and transport development, and technical infrastructure, and are marked on the map of the programme where possible.

In Styria, **regional development programmes** were passed into law in 2016 (before the backdrop of the structural reform of municipalities in Styria) by the Land government for seven planning regions based on **regional development master plans**, which contain the central strategic instruments for spatial development at the regional level. These programmes include, among other things, reserve areas and also secure spatial development options. The regional development programmes contain not only objectives and measures for entire planning areas, but also for specific sub-areas (e.g. for mountainous areas used for forestry, mountainous areas dominated by open spaces, valleys and basins dominated by farming, settlement and industrial landscapes (agglomerations). Additionally, specific functions for municipalities such as areas classified as core areas or as regional industrial and commercial sites are

assigned to specific municipalities. The regional development programmes define extensive priority zones with specific objectives for use as building land (for industry and commerce or settlement development) as well as for use as undeveloped or farming land (for raw materials priority areas, farming priority areas and as undeveloped areas or open spaces).

At the regional level there is a considerable range of informal and conceptual planning documents that are prepared by the different planning bodies and have numerous purposes. Informal concepts often feature a high **degree of innovation** with respect to organisational, structural and contextual aspects and in some cases also take ‘new paths’ in planning tasks and processes. The strength is precisely the fact that these are not binding, because formal and sovereign requirements may have a disruptive effect in (initial) coordination and cooperation approaches. In particular, in **intercommunal development concepts** that aim for the closer cooperation among several municipalities informal instruments have proven useful many times, with the possibility of including strategic considerations subsequently in binding programmes.

As an example, mention is made of the **policy plan for the Rhine Valley vision** (Leitbild der Vision Rheintal) adopted in 2006 by 29 Vorarlberg municipalities and the Land Vorarlberg. Objectives and measures were drafted for different themes (regional zone for commerce and industry, settlement and mobility as well as cooperation among municipalities for care facilities for children and older persons) that were implemented – in part – through cooperative projects. Another example is the **regional policy plan for the Vienna north zone** (Leitplan Nordraum Wien) prepared for the purpose of ensuring coordinated spatial development along the traffic routes A5, S1 and A22 since 2016. Under the slogan “cooperation on an equal footing”, a new approach to regional planning was developed that is characterised by the early and targeted cooperation of municipalities, regions and the Land. Regional goals, principles and measures of spatial planning were determined by municipalities and the Land by sharing tasks and bundling competence, and in some cases transferred as new content (e.g. definition of areas for industrial and commercial sites) to the respective regional spatial planning programme.



Over 45 “small regions” in Lower Austria have been drafting development concepts for small regions (Kleinregionale Entwicklungskonzepte, KREK) since the 1980s. When creating a KREK that is to serve as a vision for the future of a small region, the small region defines its strategy for intercommunal collaboration. Apart from the definition of thematic priorities, target groups and development goals, the concept serves as the basis for the implementation of projects. The cooperating municipalities prepare a common policy plan that contains a strategy with coordinated measures and projects to achieve the goals defined. The operational components are additionally strengthened by focusing the concept on selected themes and project priorities.

7.5.5 Sectoral spatial programmes (Sachprogramme)

There are quite a few **spatial plans for specific sectoral themes** in regional planning – both for the Land and the regional levels – that in many cases (also) have a regulatory function. As rule, regional sectoral programmes define **reserved zones** or **specific sites** for specific uses as well as **spatially separated areas** that must be kept free of certain uses or are subject to use restrictions on the grounds of being in the regional interest. Sectoral spatial planning programmes may be purely text documents and do not necessarily have to include maps; when areas are defined on maps, these are usually demarcated very precisely down to the individual plots of land.

The sectoral spatial planning programmes concentrate on **one sectoral theme** as a rule. The **planning priorities** in each of the Länder are traditionally on

- central places (zentrale Orte),
- regional open and green zones, settlement boundaries and farming priority areas,
- areas reserved to secure sources of raw materials,
- conditions for tourism facilities (e.g. golf courses, skiing areas) or
- shopping centres.

Current sectoral programmes also address the themes of protection against natural hazards, rules for wind farms and photovoltaic plants and securing areas for (line) and other infrastructure routes.

The **spatial scope of application** of regional sectoral programmes may vary widely and may cover the entire territory of a Land (e.g. Carinthia: sectoral programme photovoltaic plants; Styria: development programme for the flood-proof development

of settlement areas) or refer to certain regions (e.g. Tyrol: regional programmes for regional open and green spaces; Vorarlberg: regional open spaces as flood plains in the Rhine valley) or to individual properties (e.g. site regulation for shopping centres in several Länder). The **content** of regional sectoral programmes is often specified in detail, with the regulations being relatively short (e.g. regulations on shopping centre sites) or may essentially consist of one map (e.g. regulation on open and green space zones in Tyrol and Vorarlberg).

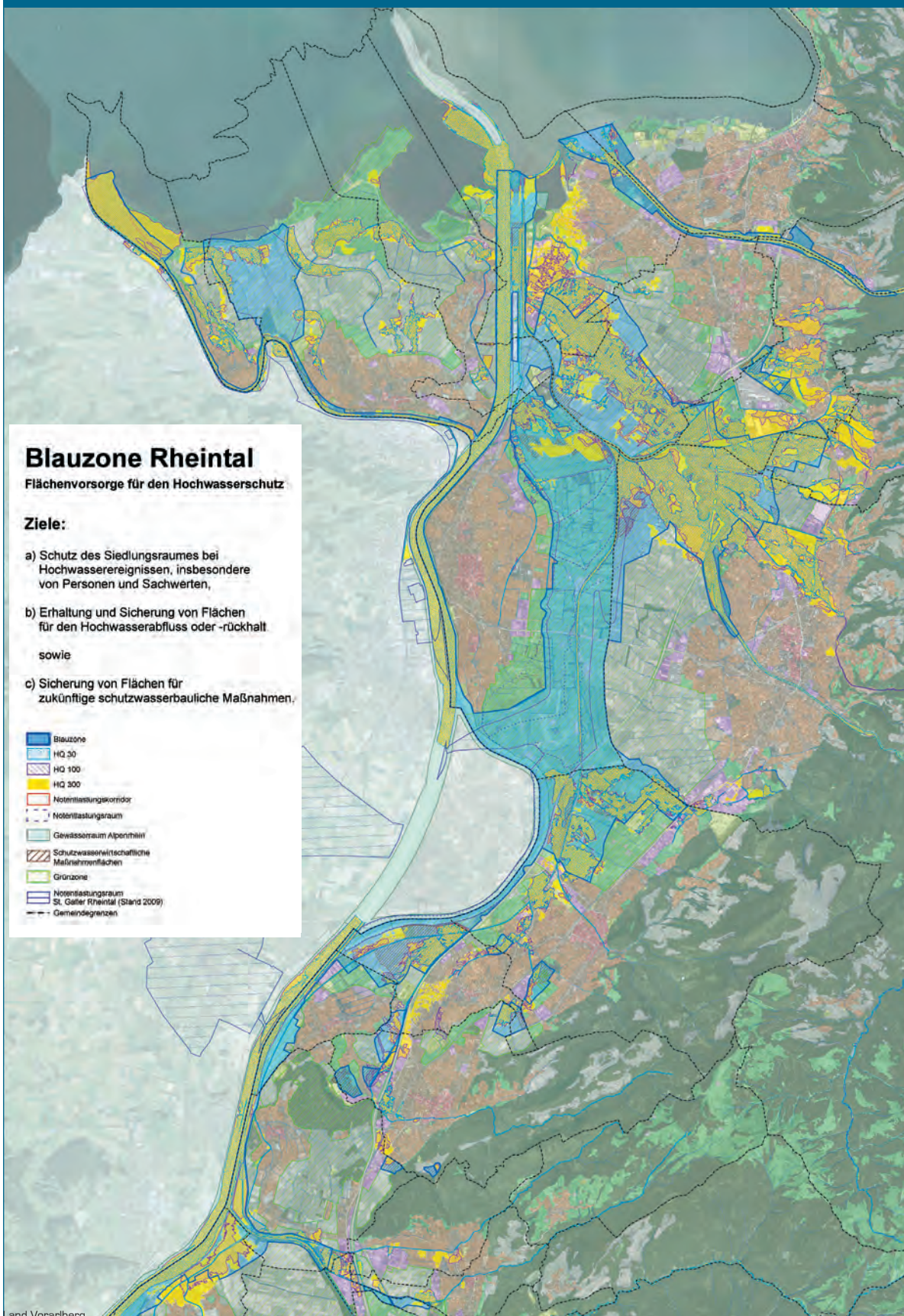
Following the flooding events of August 2005, the Vorarlberg Land government issued a regulation defining the “**blue zone Rhine Valley**” (**Blauzone Rheintal**) to improve the spatial conditions for flood protection in the Rhine valley in 2014 (Law Gazette of the Land (LGBL.) 1/2014). A measure to avoid the development of new isolated buildings is the classification of areas as blue zone areas that must be zoned as open spaces and therefore kept free of any buildings.

In some Länder advisory bodies have been set up as **spatial planning advisory councils** for the Land government, and in some cases, also at the regional level. Spatial planning advisory councils generally do not have any decision-making powers, but serve in an advisory function although many non-binding expert opinions do have significant factual effect. The advisory council must usually be heard by the respective Land government in matters relating to spatial planning, in particular, before finalising or amending regional spatial plans; it often also has the right to submit statements of opinion. In some cases, the advisory council must make recommendations or proposals for certain spatial planning matters. The Länder have different regulations governing if and when spatial planning advisory councils are (or must be) involved in planning procedures; as a rule, they are involved before the regulation is passed or a decision is reached by the Land government. With respect to the persons appointed to the advisory councils, a difference must be made as to whether the spatial planning advisory council is to serve as an expert body with the corresponding advisory function or as a political body with the function of achieving a balance of interests and coordinating tasks.

7.6 Local Spatial Planning

Municipalities as **autonomous administrative bodies** play a special role in spatial planning that is established in constitutional law: Municipalities that are (only) “administrative” bodies in their sovereign

Fig. 28: Excerpt from the regulation issued by the Land government of Vorarlberg defining regional open spaces as protection against flooding in the Rhine Valley area "Dornbirn-Lustenau" ("Blauzone Rheintal")



Tab. 05: Instruments of Regional Spatial Planning

Federal State (Bundesland)	Strategic instrument	Zoning plan	Development plan legal basis
BURGENLAND Bgld RplG 1969 LEP 2011	Örtliches Entwicklungs- konzept (ÖEK)	Flächenwidmungsplan (§§ 12-20)	Bebauungsplan und Teil- bebauungsplan (§ 21-27)
CARINTHIA Ktn GplG 1995	Örtliches Entwicklungs- konzept (§ 2)	Flächenwidmungsplan (§ 1) Integrierte Flächenwidmungs- und Bebauungsplanung (§ 31a)	Bebauungsplan (§§ 24-31b)
LOWER AUSTRIA NÖ ROG 2014	Örtliches Raumordnungs- programm (§ 13) Flächenwidmungsplan (§§ 14-22), Örtliche Entwicklungs- konzepte (§ 13 Abs. 2 und 3)		Bebauungsplan (IV Ab- schnitt, §§ 29-36)
UPPER AUSTRIA Oö ROG 1994	Flächenwidmungsplan mit örtlichem Entwicklungskonzept (§§ 18-30a)		Bebauungsplan (§§ 31-38)
SALZBURG Slbg ROG 2009	Räumliches Entwicklungs- konzept (§§ 23-26)	Flächenwidmungsplanung (§§ 27-49)	Bebauungsplanung (§§ 50-64) Grundstufe (§ 61) Erweiterte Grundstufe (§ 62) Aufbaustufe (§ 63)
STYRIA Stmk ROG 2010	Örtliches Entwicklungs- konzept (§§ 21-24) Gemeinsames örtliches Entwicklungskonzept (§ 23)	Flächenwidmungsplan (§§ 25-39) Bebauungsplanzonierungsplan (§ 26 Abs. 4)	Bebauungsplan (§§ 40, 41)
TYROL TROG 2016	Örtliches Raumordnungs- konzept (§§ 31-34)	Flächenwidmungsplan (§§ 35-53)	Bebauungspläne (§§ 54-62)
VORARLBERG Vlbg RPG 1996	Räumliches Entwicklungs- konzept (§ 11)	Flächenwidmungsplan (§§ 12-27)	Bebauungsplan (§§ 28-38)
VIENNA WBO 1930		Flächenwidmungspläne und der Bebauungsplan (§§ 2-12)	

Own compilation

function (but have no legislative function) must execute local spatial planning pursuant to Art. 118 (3) no. 9 Constitutional Act **within their own areas** under federal and Land laws. Planning decisions regarding the future development of municipalities as well as the determination of the options for uses and building under planning laws are thus assigned to the municipalities. The municipalities basically have the following tasks:

- Conduct **basic research** and **status surveys**,
- Process spatial data (**Data management**)
- Coordinate interests of spatial relevance of the municipalities and other planning bodies (**coordination**);
- Create **local spatial plans**.

The municipalities have **far-reaching planning powers** with respect to local planning that permit detailed determinations all the way down to the plots of

land; these determinations serve as the basis for the subsequent building permit procedures. The concrete application of spatial planning determinations is done through the **building site assessment and/or building permit** which are governed by the building code. Building measures are only permissible if they comply with the determinations of local spatial plans, in particular, with the zoning plan and the development plan.

Generally, pursuant to the spatial planning laws there are **three stages in the instruments** applied in planning by the municipalities: the local development concept, the zoning plan and the development plan. Local spatial planning includes municipal zoning plans and development plans in addition to local development planning, which is implemented in different ways. For the three instruments functionally linked in different ways in the Länder, a **hierarchical**

basis of the results of the survey of the status quo and bearing in mind the spatial regulatory requirements as well as regional plans, the local development concept must include the spatially-relevant measures to achieve the development objectives and in some instances the respective time sequence.

As regards **legal effectiveness**, the self-regulation of the municipalities is especially important; the local development concept may contain special conditions for private sector administration tasks of the municipalities. Regarding sovereign planning measures, the contents of the local development concepts are a working requirement for the issuance of further spatial plans and constitute a legal act requiring concrete specifications, with the binding effect becoming valid only through the subsequent zoning plans and development plans. In some Länder, local development concepts are **regulatory in nature** and gain legal effectiveness, in particular, when zoning plans or development plans are issued or amended and do not infringe the legal sphere of the property owners. Local development concepts that are not issued as regulations do **not have any direct legal effect** but are nonetheless binding on the authorities internally by resolution of the municipal council. The spatial development concept, for example, is binding on the municipality pursuant to § 23 (3) Salzburg ROG within the scope of its planning activities, but do not establish any rights of third parties.

Some Länder stipulate a general **obligation to create** local development concepts, while others give the municipalities the option of doing so (**optional instrument**). These are conceived in most cases as an autonomous planning instrument and it is only in Lower Austria and Upper Austria that local development concepts are passed together with the zoning plans.

In Styria, the municipalities of a small regions, which are functionally related in space, must prepare and maintain their local development concepts in the form of a uniform overall concept (**common local development concept**).

Special rules concerning planning structures are prescribed by the provisions of the **Lower Austria ROG 2014**, with the development concept having to contain “only” the key visions and objectives for the development of the municipality. The strategic measures are part of the local spatial planning programme that contains the text of the regulation. The

principal instrument of the local spatial planning programme in Lower Austria is the zoning plan.

Local development concepts, which usually consist of a text part and a map part and cover a **planning period of 10 to 15 years** (or up to 25 years in Salzburg), contain general objectives and measures for the development of the municipality and an explanatory report. In some cases, special plans must be prepared in connection with local development concepts and planning determinations must be made (e.g. transport concepts or landscape concepts in Lower Austria, settlement priorities and urban development planning zones in Salzburg, spatial policy concepts as preparation of the development plan in Styria). Coordination with the neighbouring municipalities is often mandatory.

The **contents of local development concepts** may vary widely, although the legislator mandates a minimum **content** in some cases. For example, the ROG in Styria stipulates the following contents:

- spatial-functional breakdown,
- the direction and the boundaries of the development of building zones,
- priorities for the development of settlements and undeveloped areas,
- if applicable, special sites for housing, commerce, trades and industry; areas with use restrictions and areas requiring particular protection (e.g. quiet zones-, open and reserve zones).

The concrete contents and the actual intensity of the effects of local development concepts depend strongly on **problem awareness and the will to steer developments** on the part of the local planning bodies and consequently on the defined objectives and measures. Overall, the significance of the local development concept as a central planning instrument of municipalities has increased.

7.6.2 Zoning plan

The zoning plan (Flächenwidmungsplan) as a **traditional instrument of sovereign spatial planning** is of special significance; all municipalities in Austria have issued zoning plans and have made key statements on the zoning and use distributions. The special significance of the zoning plan for municipal planning practice results from the **far-reaching legal effects** that zoning determinations entail.

Generally, the **municipal council** (Gemeinderat) and **city council** (Stadtrat) are responsible for passing and

amending the zoning plan. The zoning distribution is defined by the issuance of a **regulation** and constitutes the binding framework for individual building projects. As the **permits under building regulations** (especially building site assessments and building permits) may only be granted if they comply with the contents of the zoning plan, the respective zoning determinations are of central significance for building authorities and property owners.

The main legal aspects and contents of the zoning plan are basically unchanged since the spatial planning laws of the Länder were passed in the 1970s: The spatial planning laws define the zoning plan as a key instrument of **local land use planning** that is generally set up as an independent planning instrument of local spatial planning - there are **exceptions** in Lower Austria (the zoning plan is part of the local spatial planning programme), Upper Austria (the local development concept is part of the zoning plan) and Vienna (in maps it is usually presented together with the development plan).

The zoning plan must break down the territory of the municipality by **spatial and functional requirements** and must make binding determinations on zoning and land use types. The purpose of a zoning plan is the orderly structuring of settlements by breaking down the entire area of the municipality into different zones that serve different (building) purposes. The regulation of the uses in the zoning plan does not infringe on existing rights, but permits (only) changes, if necessary, to existing uses in the manner defined by the plan. The zoning determinations in the zoning plan have a clear **normative effect on future developments**. Although controversial in individual cases and not always observed in practice, the public interests defined in the zoning plans are relatively clear and well-established through decades of practice – and also by the corrections made by the high courts.

The spatial planning laws are structured according to the **hierarchical system applicable to legal norms** according to which the zoning plan is subordinate to higher-ranking legal norms and determines the subsequent sovereign decisions.

The zoning plan is usually passed in the form of a **regulation** and intended to steer spatial uses for several years and thus individual building activities, which ultimately should result in attainment of the defined planning principles and objectives. The **implementation** of the **zoning requirements** is

essentially assigned to the property owners (**supply-side or negative planning**). Conventional zoning systems usually do not include any realisation obligations and the point in time of use in conformity with the zoning may be determined by the property owners. The zoning requirements in the zoning plan are traditionally not directly linked to realisation, but only describe the permitted uses of land for future building projects. In connection with issues relating to **building land mobilisation**, land development deadlines and obligations to build are conditions that are being added to spatial planning laws more frequently to accelerate the use of the properties in conformity with the zoning. To promote the actual realisation of the intended zoning, contractual variants are being increasingly established in the laws (“**spatial planning contracts**” – “**Vertragsraumordnung**”).

Contents of the zoning plan

The **basic planning materials** for the zoning plan, which is drafted usually on a 1:5000 scale – and increasingly digital – is the **cadastral register**. As a matter of principle, the demarcation of the plots of land is not changed by the zoning plan.

All Länder have passed **regulations defining the notation and units used for the maps** for the local spatial plans and for zoning plans, thus creating uniform formal rules for drawings and maps. Several map notation and units regulations explicitly stipulate that local spatial plans and amendments thereto must be done electronically or in **digital form**. In many cases, the transmission of local plans by the municipalities to the Land governments is done in paper form and electronically.

As a rule, the zoning plan must clearly mark **regional planning measures** for all surfaces with an accuracy of detail

- down to the plots of land and **define the**
- **zoning types** based on the **official digital cadastral register** (DKM), in some cases based on orthophotos.

The zoning plan usually consists of a **map** and a **text description**. In Styria, the zoning plan contains – apart from the zoning plan in the narrower sense and any supplementary maps – the **development zoning plan** that defines building land and the special uses on undeveloped land for which development plans must be issued.

Identification and markings

Local spatial planning is the remit of the municipalities, but the federal government and the Land may also

define **binding land uses**. These regional regulations must be marked or identified in the zoning plan (**identification or markings**). The zoning plan supplies information on key requirements for land use and on legally binding plans issued by regional planning bodies; there is a rising tendency in the number of regional regulations and thus of the markings and identifications. For example, pursuant to spatial planning laws in Salzburg (§ 43 Slbg ROG), the zoning plan must identify:

1. areas that are subject to restricted use based on federal and Land laws, such as
 - a) Forests in the meaning of the Forestry Act, and separately protective forests,
 - b) Natural monuments and areas subject to nature conservation rules,
 - c) Protected townscapes and historic monuments and regions,
 - d) Special protection areas under water laws,
 - e) Protected areas with mineral springs, resort districts,
 - f) Mining areas and similar under the Mineral Raw Materials Act (Mineralrohstoffgesetz),
 - g) Protective areas for roads and road planning areas,
 - h) Protective areas for utilities,
 - i) Areas for railways and cable cars where building is prohibited as well as safety zones for airports,
 - j) Safety strips for high-voltage lines,
 - k) Closed military zones,
 - l) Hazardous zones pursuant to the Munition and Explosives Act (Schieß- und Sprengmittelgesetz);
2. Hazardous zones and functional areas for forestry planning and water management;
3. Flood run-off areas pursuant to water laws;
4. Areas necessary for flood run-off and retention;
5. Suspected contaminated sites and legacy sites pursuant to the Act on the Financing and Implementation of the Remediation of Contaminated Sites (Altlastensanierungsgesetz).

The main information contained in the zoning plan is the **zoning areas defined** in detail down to the plots of land for all properties. The zoning creates a **spatial separation** of the individual spaces for living and by use functions: Conflicts of use or interest are to be reduced by eliminating mixed uses and spatially separating contradictory functions. Generally, the main contents of spatial planning laws are the zoning categories set out below that may be defined by the municipalities autonomously – within the framework of applicable law:

- **Building land**
- **Traffic areas**
- **Undeveloped land/farmland**

All spatial planning laws subdivide the basic categories into **further zoning and use types**, with the concepts and contents varying widely from Land to Land.

Building land

By **defining building land**, which, depending on the local circumstances and requirements, are subdivided into different types of zoning for building land, the main determinations are made on the spatial location of building structures on areas belonging to a municipality and on the permissible forms of use. Depending on the type of zoning for building land, different types of building structures may be erected on the zoned properties from a spatial planning standpoint. The subdivision of building land into types of use is based on **functional criteria** that define properties for residential uses (esp. building land for residential purposes) or work uses (esp. building land for commerce). Moreover, mixed uses are also possible (e.g. mixed use building land or building land core area) where several uses and types of construction are permitted. The separation by function is supplemented by a differentiation based on **environmental impacts** or protection from emissions, with individual zoning types permitting different levels of strain (e.g. building land for commerce and building land for industry).

The **specific content** of the respective zoning type is defined by the spatial planning laws – to varying degrees of detail. Only building structures that conform to the zoning criteria defined by law are permitted on the respective building land. As the spatial planning laws contain some significant **exceptions** for zoning types, the interpretation of the zoning provisions of the law may be time-consuming.

A closer look at the zoning type “**building land for residential purposes**” reveals that this type of zoning generally permits buildings used as residences, even though additional uses are possible depending on needs and the environment. Usually, there are hardly any restrictions to types of residential buildings or forms in building land zoned for residential purposes. On the whole, all types of housing and housing forms may be erected on building land zoned for housing. In some cases, the spatial planning laws include supplements to zoning for residential purposes that permit quantitative requirements for flats. Thus, for example, pursuant to § 16 (5) NÖ ROG, building land for residential purposes may have the addendum “maximum of two dwellings” or “maximum of three dwellings”.

Core areas and mixed areas, which are not defined for all Länder, permit a **higher degree of mixed use** in comparison to residential areas. **Core areas** pursuant to spatial planning laws in Upper Austria (§ 22 (4) Öö ROG) are those, for example, with mostly urban structures or structures that typically from centres and are used primarily for public buildings, office and administration buildings, buildings for commerce and service enterprises, events and residential buildings. **Mixed areas** usually permit - apart from residential buildings - also buildings and facilities that serve mainly to meet the needs of the local population and do not create any nuisances or hazards beyond the locally acceptable level.

The spatial planning laws define specific zoning categories for **commercial structures and industrial plants** that enable the establishment of enterprises for specific commercial uses. Even though the **competence for commerce and industry** pursuant to Art. 10 (1) no 8 Constitutional Act is the remit of the federal level with respect to legislation and execution, no direct spatial planning powers for sovereign acts of the federal government result from this distribution of areas of competence and neither does the federal level have the power to restrict the spatial planning sovereignty of the municipalities for commercial and industrial structures.

Restrictions to the use for housing are found in some isolated cases for building land for residential purposes in the spatial planning laws and refer, for example, to the **period of use**: The provisions of the spatial planning laws of the individual Länder restrict the temporary use of residences (**secondary residences or holiday flats**) to specific areas. The use or construction of **holiday flats** requires special determinations in the zoning plan (specific zoning) in some Länder, and some make a difference between different types of holiday residences (e.g. apartment buildings, holiday villages, large accommodations enterprises). The specific zoning for holiday flats may differentiate if

- the specific zoning is a **separate zoning category** for building land (e.g. Salzburg),
- the specific zoning is an **addendum to certain building land zoning types** (e.g. Vorarlberg).

The difference between **specific zoning** or a **zoning addendum** is important, because either general zoning criteria apply to building land in general (and thus for the zoning addendum) or specific zoning criteria apply to holiday residences (usually when this is a separate category of building land).

In connection with “**affordable housing**”, some zoning criteria are relatively new that apply to buildings eligible for subsidies. Within the scope of the zoning plan it is now possible in almost all Länder to secure properties for **subsidised housing** and it is possible to prevent a property from being used for other purposes by assigning the corresponding zoning. A difference is made between

- **(special) zoning** for housing construction eligible for subsidies and
- **reserved areas** for housing construction eligible for subsidies.

In contrast to (special) zoning that reserves properties for specific uses, reserved areas include methods for implementation in conformity with the zoning. As the determination of (special) zoning for subsidised housing is only a **planning option made available** (the property owner is not under the obligation to execute the planning), supportive measures exist to achieve implementation in conformity with the zoning, such as spatial planning contracts or limited-time zoning.

Some spatial planning laws define a specific zoning type that refers closely to the **town and city centres** and aims to strengthen central areas. A difference is made in this context between the types of zoning that

- are typically defined in **core areas of towns and cities**: e.g. high-rise building zones, commercial zones, zones for town structures worthy of preservation, shopping centres;
- define **core areas of towns and cities**: e.g. centre zones, settlement priorities.

Reserved areas and special zoning

The spatial planning laws also specify the zoning category “**reserved areas**” that give **municipalities** the opportunity to reserve areas **for their own needs** (public purposes, municipal facilities: schools, kindergartens, administration buildings, ...). Reserved areas are a **separate zoning category** in most Länder, while in a few cases they are classified as a type of zoning for building land (Carinthia, Styria).

The **identification of reserved areas** is done only **upon request** of territorial authorities and public institutions, and the beneficiaries are under the obligation to **develop the areas** within a certain period (usually within 5 years). If these are not developed, the classification as reserved area is deleted. The **legal effect** of reserved areas varies from Land to Land. In order to enforce the zoning, an **application for expropriation** may be filed (for compensation) in some Länder.

Fig. 30: Excerpt of the Zoning Plan in the area of the Municipalities of Nüziders and Bludenz (Vorarlberg) with respective zonings



Land Vorarlberg, VOGIS

In some Länder (Carinthia, Salzburg, Styria, Tyrol), reserved areas can be defined not only for building projects that meet the conventional needs of a municipality, but also for future **subsidised housing projects**, while other Länder set aside special zones for subsidised housing.

Undeveloped areas/farmland, open space

When attempting to define the term “**undeveloped area/farmland**” (Grünland) or “**open space**” (Freiflächen), the Land legislators usually take recourse to a negative definition and refer to all areas as undeveloped land/farmland that are not zoned for transport, as building land or as reserved areas. With respect to **construction activity**, there are far-reaching restrictions for undeveloped land/farmland. Usually, structures may only be built on undeveloped land/farmland or a building permit be granted if these **comply with the zoning criteria** and are necessary for the use of the **undeveloped land/farmland**. A ruling by the high court makes it clear in this context that quite strict rules apply to the **necessity assessments** for structures on undeveloped land/farmland. By contrast, construction activity on building land is only evaluated as to its conformity with the zoning criteria, but not as to its necessity.

Spatial planning laws specify what can be built on undeveloped land/farmland by including a demonstrative list of possible types of use. The **manifold functions** of undeveloped land/farmland and the fact that certain activities are tied to the location and use, have motivated legislators to provide for a large number of special uses of undeveloped land. Thus, the areas used for farming, barn sites, recreation and sports areas, camping sites and small garden complexes are also considered as **special uses on undeveloped land/farmland** just like wind farms, aggradation areas, raw materials extraction and processing sites, and also landfill areas.

A systematic differentiation can be made for **land development with respect to the uses of undeveloped land/farmland**:

- **undeveloped land that does not permit any development** reserved areas (e.g. undeveloped land/farmland- reserved areas, wasteland, green belt),
- **Undeveloped land/farmland** that permits development only when necessary, with the **larger portion of the undeveloped land/farmland remaining unbuilt** (e.g. undeveloped land for forestry, undeveloped land for parks, undeveloped land for extraction sites for raw materials),

- **Undeveloped land/farmland** on which development is only permitted when necessary, with the **larger portion of the area being built up** (e.g. undeveloped land for plant nurseries, small garden plots or sports sites),
- **Undeveloped land/farmland reserved for specific open space uses** (e.g. undeveloped land for solar parks, undeveloped land for wind farms).

Building and planning procedures at the municipal level result from the provisions applicable to the use of **undeveloped land/farmland - special uses** in the Länder with varying requirements. An assessment of whether a concrete building activity on undeveloped land can be permitted is primarily the responsibility of the **building authorities** that review each building permit application individually. If general zoning types for undeveloped land/farmland are defined (e.g. undeveloped land/farmland for agriculture), the review of conformity with the zoning and the necessity assessment by the building authorities may be time-consuming. As a result of the many different **special uses** of undeveloped land/farmland, the **planning authorities** are now increasingly defining detailed requirements for the subsequent building procedures. The consideration of interests and the reasons for the decisions by the planning authority and subsequently by the supervisory authority is decisive for the determination of special uses, which are relatively easy to check during the building procedures. If a special use permit is necessary for almost every major construction activity on undeveloped land/farmland, the costs and time for the planning process increases, because detailed suitability criteria for the plots of land can only be determined at considerable costs for such small areas.

Planning determinations and zoning criteria

The **room for discretion** guaranteed by constitutional law and by spatial planning law permits the municipalities to select from several planning options within the legal framework. The breakdown of the area of the municipality into building land, traffic areas and undeveloped land/farmland as well as into the individual zoning types must be done by the municipality in such a manner so that all **legally binding obligations** are observed, in particular, the restrictions to planning and uses under federal and Land laws, the requirements of regional spatial concepts and the local development concept. Additionally, spatial planning laws in some cases also contain **zoning prohibitions** that exclude, in particular, zoning as building land. If a property is **not suitable** due to the natural characteristics, zoning as **building land is not permitted**. The

reasons may include natural causes (e.g. the subsurface is not sufficiently stable to bear the weight, flooding zones, areas at risk of mudslides, falling rocks, rockslides, torrents or avalanches, risky areas, extremely humid or shady areas), location far from settlements (high economic costs of development) or if it would be detrimental to a townscape or landscape.

When assessing the suitability of surface areas for building land, a negative impact due to **noise** must be taken into account so as to ensure that no unacceptable noise nuisance occurs. Compliance with the **relevant dB values** is considered given, for example, when pursuant to TROG the testing sound level at the respective property boundary does not exceed the following dB (decibel) values during the time periods day, evening and night depending on the zoning (§ 37 (4) TROG):

	Day 6:00 to 19:00	Evening 19:00 to 22:00	Night 22:00 to 6:00
Residential zone	50 dB	45 dB	40 dB
Mixed residential or tourism zone	55 dB	50 dB	45 dB
Core zone or agri- cultural mixed zone	60 dB	55 dB	50 dB
General mixed zone	65 dB	60 dB	55 dB

Municipalities are not permitted to zone land as building land indiscriminately ("**building land minimisation mandate**"), but must **estimate building land needs** for a certain planning period (usually five to ten years), in particular with respect to zoning as building land for residential purposes. In many cases, the building land demand of municipalities is to be proven based on detailed analysis broken down by building land category ("Flächenbilanz").

The zoning determinations alone do not always create the legal planning framework needed for the **realisation of building projects**. Even if building zones are identified, a **detailed review** within the scope of building permit procedures may reveal that concrete building projects are not permissible due to environmental standards, for example, in connection with environmental noise, particle pollution or flooding protection. Thus, many zoning categories are a criterion in assessment practice (building regulation) that in specific cases are not aligned and must be corrected.

The separation of building land and undeveloped land is a discretionary decision that must be founded on factual reasons by municipal planning bodies when there are **no reasons for excluding** zoning as

building land and **regional planning does not** prescribe use as undeveloped land/farmland. Based on the planning objectives, the municipality must, above all, determine the contradictory zoning as building land or undeveloped land. A division of the area of a municipality into diverse zoning categories is generally **already decided**, because all municipalities have legally binding zoning plans. **Corrections** in the form of rezoning are permitted, but require special conditions.

When changes to a plan are permissible, the planning authorities must conduct a well-thought-out and logical **consideration of interests** based on **basic research and analysis** in order to comply with the requirement of furnishing verifiable planning reasons in line with the mandate of objectivity. A requirement for every zoning determination is the availability of **facts on the status quo and analyses** of the given conditions as well as of changes to them with the task of sufficiently ascertaining the reason for the change and the need for certain zoning categories, and furnishing sufficient reasons for the suitability of areas for intended uses and for determinations on the use. The **verifiability of a planning decision** is a key assessment criterion in the approval procedures of the inspecting authorities. As regards any conflicts with the principle of equal treatment, divergent ascertainments are reasonably justified if a spatially-differentiated use results from differences in the facts and there are well-founded reasons.

If the planning authorities conduct the relevant **basic research and consideration of interests**, several **zoning variants** are permissible in many cases whereby a reference must be made to the respective spatial planning objectives and planning goals of the municipalities. When all of the conditions required by law for the zoning of a property as building land are met, the municipality **may** declare this zoning. Usually, however, it does not need to do this if the law permits other types of zoning. Therefore, the **municipality may** (continue to) zone an area as undeveloped land although it is suitable as building land without exceeding its discretionary powers in an arbitrary manner. In this respect, property owners **do not have a statutory right** to a specific zoning.

Project-related zoning

Project-related planning refers to planning determinations reached within the scope of planning preparation procedures and **project-related** aspects which are given much wider consideration than in conventional zoning determinations. The zoning plan

no longer only defines general restrictions to use in the form of zoning categories with a view to the long term, but only when there is a concrete project are the project-related basic research and specific planning determinations carried out which in some cases are preceded by agreements (spatial planning contracts) under civil law.

For practical planning reasons, project-related zoning decisions are based on sectoral grounds. **Traditional zone planning** that is long-term planning to keep land available has proven too inflexible and also too general. For reasons of legal certainty, the zoning plans are constant and can only be changed to a limited extent and especially for this reason they are too rigid and lack flexibility, as specific uses can often only be defined reasonably on a project basis.

Project zoning is the result of **project-linked planning processes**. The rezoning required for large-scale projects is usually the last act in a long planning process and constitutes the formal finalisation of detailed, project-linked investigation, evaluation and participation procedures. Generally, the zoning does not apply to an entire municipality, but for individual ad hoc cases for which a strategic environmental assessment is carried out. These types of building projects are not as much oriented on the zoning plan, but rather the zoning plans are adjusted to the current individual projects.

The recognition of the parties in the planning process and their legal status continues to be defined by conventional procedures with restricted rights to statements of opinion.

In connection with **development planning**, the spatial planning laws of Salzburg and Styria stipulate that on the request of a property owner or a building permit applicant, development plans are to be prepared when the intention to build is proven by presenting a concrete project. In Styria the procedure must be initiated immediately after such case occurs and must be closed at the latest within 18 months.

Generally, the zoning act is increasingly also including **contracts under civil law** with different intentions. In the beginning, it was mainly the obligation to build and preemptive rights of municipalities that were the subject of the contracts, now the ideas being considered include agreements to pay for the infrastructure costs and to deliver a tax on gains from the rezoning. In particular, in urban areas with high demand for building land, the zoning process to

classify land as building land is (now only) part of an extensive and multi-stage **planning and project process** with respect to content and procedures. Typically, project-related zoning is not (no longer) defined unilaterally by the sovereign planning authorities, but in cooperation with several actors.

There are also new requirements for the planning procedures regarding the identification of building land. Even when the building land categories and the criteria for the identification of building land essentially remain constant, there is a significant change as building land is no longer defined for the long term and with a view to future trends, but rather **on short notice and ad hoc**. The zoning procedures are showing a tendency to become more similar to project approval procedures, a fact that up to now has had little impact on Austrian spatial planning legislation, which only contains few project-linked planning procedures. The strict separation of sovereign zoning, on the one hand, from private projects, on the other, is being moderated, with the municipalities having created in many cases the sectoral framework for the corresponding coordinating activities and agreements through strategic spatial planning concepts.

Strategic planning instruments are an indispensable condition for enabling comprehensive discussions on the fundamental development strategies already before there are concrete projects to be discussed. Ad hoc discussions on project for which there are only vague criteria from a planning perspective are ripe with conflict and the outcome is hard to prognosticate, and therefore, they are time-consuming and expensive. All Länder have created the possibility of defining strategic conditions through **local development concepts** and the majority of municipalities use this instrument, albeit with divergent contents and degrees of commitment. At the regional level, partially there is a lack of **regional concepts** for potential large-scale projects and this may lead to ad hoc decisions influenced by topical political debates.

7.6.3 Development plan

In all Länder, **development plans** (Bebauungsplan) are hierarchically **subordinate** to the **local development concepts and the zoning plan** and must not contradict these plans. As the degree of detail in the planning instruments increases the lower we go in the hierarchy, development plans contain the most concrete provisions for building and transport accessibility.

The development plan is **part of local spatial planning** and is one of the measures that municipalities can take in their own spheres of influence, and – apart from the zoning plan – is a key sovereign planning instrument. Just like in the case of the zoning plan – both are **regulatory in nature** – building permits may only be granted if these do not contradict the planning criteria of the development plan. The development plan may consist of a **text part** in addition to the **map part**, in which the details of the **development plan regulations** are defined.

Development plans have the **purpose** of ensuring that development meets the purpose in an orderly manner. They define construction design criteria and regulate urban development with respect to building structures. The development plan specifies the **details of the development** of land zoned as building land and as undeveloped/farmland, and defines design criteria and the necessary access to transport. When all objectives and purposes defined by the individual Länder have been considered, we can derive **three principal tasks** of development plan:

→ More thorough explanations and/or **detailed description of the zoning plan**

The general determinations on uses of zoning plans that permit a wide range of building structures, in particular, regarding the dimensions, are **additionally restricted** by the development plan.

→ Steering the **spatial structure**

The development plan governs, among other things, the concrete location of a building project on a property, the permissible size and height (**quantitative statements on spatial planning**) as well as **criteria for the design**.

→ **Regulation of accessibility**

The detailed provisions regulating transport accessibility are laid down in the development plan.

The **cartographic presentation** of a development plan is generally on a bigger scale than the zoning plan (e.g. 1:1000 or 1:2000) and is governed by the regulation on map notation and units for development plans. As regards the content of the development plan a difference is made between **mandatory content and optional content**, although the regulations vary widely from Land to Land. Generally, the following content may be defined as mandatory for a development plan:

→ **Scope of application**: Demarcation of a planning area,

→ **Building lines**, in particular, roads and distances from building to property line,

→ **Building heights, building classes**,

- **Building methods** and the measure of building use,
- **Traffic areas** of the municipality, routes and widths of the traffic areas,
- **Markings**: Content of the zoning plan, property boundaries.

The **potential contents** are listed demonstratively in the spatial planning laws and comprise many different regulations that the municipalities may define based on the local situation and requirements such as, for example,

- location of the buildings, areas that cannot be built on, position of the buildings,
- Requirements for a certain chronological sequence of the development (development zone),
- Arrangement and design of pedestrian zones,
- Parking spaces for vehicles,
- heightened building noise insulation of exterior building structures,
- Provisions on the planting of trees and bushes and their maintenance as well as measures for green roofs and green buildings,
- Minimum or maximum number of housing units,
- Enclosures and advertising installations: Requirements regarding the height, shape, materials, lighting,
- special provisions for high-rise buildings and large-scale building projects.

While some Länder **empower** municipalities to prepare development plans, other Länder **mandate their preparation**. In these cases, the granting of building permits is contingent on a development plan (e.g. Vienna).

With regard to development plans, a distinction is made regarding the **scope of application** - in which areas the respective development plan is legally effective - between administrative (municipal territory and parts thereof) and functional areas. The scope of application for development plans is partly defined in the zoning plan and for certain uses in the spatial planning laws (e.g. location of shopping centres) or in major planning projects (e.g. areas of more than 1 ha). The preparation of a development plan may be mandatory for such sensitive urban and spatial planning areas, in particular, areas that are to be newly built up or which are affected by land consolidation.

The **principles and objectives** of spatial planning regulation also apply to development plans, even when the main orientation is primarily on local development concepts and the zoning plan. As in the case of

the zoning plan, **interventions** in the form of building restrictions must be based on basic research and the consideration of interests and measured by the principle of equal treatment and the derived requirement of objectivity.

The Länder have created different **regulatory systems for development planning**. Some legislators have defined **different stages** within the development plans. Thus, a difference is made between

- Development plans in the basic phase and the structural phase,
- Text form development plans and partial development plans, and
- Special forms such as development guidelines.

While **general conditions** such as building lines, building density and heights are defined in the basic phase, **detailed regulations** may be defined in a supplementary development plan (Tyrol) or in the structural phase (Salzburg).

It is becoming frequent for **urban development and architecture competitions** to be held in connection with development plans with the aim of obtaining high quality development plans and design concepts. One-phase or multi-phase competitions are held especially for large-scale construction projects, in part on the legal basis of the residential construction laws before the development plan is defined.

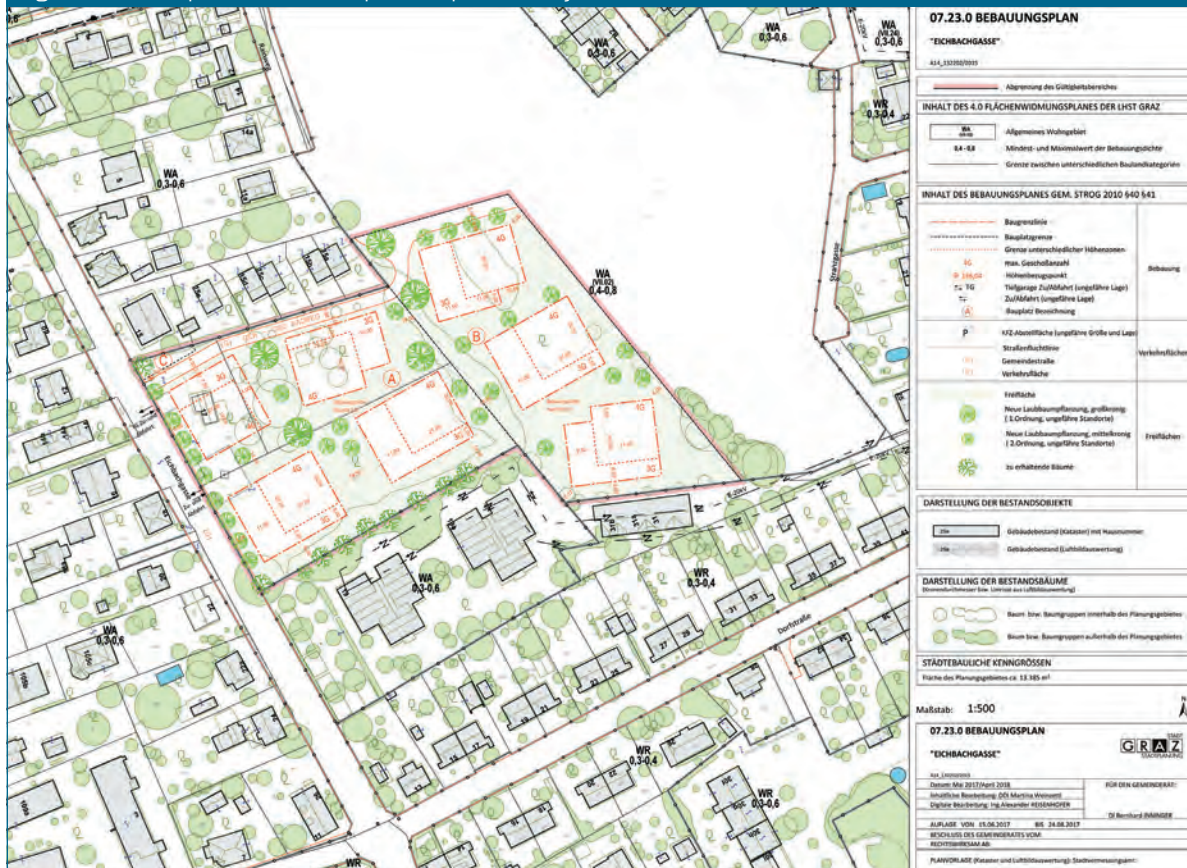
Municipalities are increasingly using **non-binding design and building concepts** for building development visions which are not sovereign plans in the form of regulations and are usually prepared for small areas and feature highly detailed contents. Often, design concepts have a **close connection to development plans**, in particular, when they are prepared in the form of

- preliminary, spatial and building development goals,
- supportive proposals for concrete implementations, or
- subordinate, detailed design proposals.

7.6.4 Non-binding local spatial plans

As a supplement to the sovereign spatial plans of the municipalities, there is a tendency to use **non-binding, strategic planning instruments** that do not meet the contextual and formal requirements of spatial planning law and are used flexibly for different themes, concerns and frames of reference. Thus, **master plans, policy plans, strategies or concepts** are

Fig. 31: Example of a development plan – City of Graz



City of Graz

prepared, for example, for denser building in centres, for transport and mobility, for undeveloped areas and recreation, for vacancy management, for energy or generally for planning processes and participation. The respective scope of application may be widely diversified and apply across municipalities or apply to only one block.

7.7 Building Land Mobilisation Instruments

In the past years, the Länder have added different instruments and measures to the spatial planning laws in order to improve **availability of building land**. The widespread **hoarding of building land** was based on the legal planning system, which, by zoning building land in the sense of “supply planning”, created only options under planning laws for the erection of edifices – basically there was **no obligation to build** for property owners.

The slogans “**active land policy**” and “**building land mobilisation**” were the headings under which additional measures were defined for areas zoned for building, that were intended to trigger swifter

implementation in conformity with zoning regulations. The measures to **increase land mobility** are diverse and cover measures under public law and contracts under private law as well as informal measures for raising awareness. Essentially, the following – summary of – **instruments for building land mobilisation** is applied:

- Private law measures, especially spatial planning contracts,
- Limited-period zoning as building land,
- Collection of development charges and maintenance charges,
- Active land policy through the purchase of properties, creation of Bodenfonds (land funds),
- Building land consolidation.

7.7.1 Spatial planning contracts

Spatial planning contracts (Vertragsraumordnung) are established in **all Länder** in spatial planning laws, with the legal basis not being much different. Since the WBO-Novelle 2014 (Vienna building code amendment), all spatial planning laws of the Länder now contain provisions enabling spatial planning contracts, thereby creating the necessary **legal basis**

Tab. 06: Overview – building land mobilisation measures in the spatial planning laws of the Länder

Federal state (Land)	Spatial planning contracts	Limited-period zoning as building land	Maintenance and development contributions	Bodenfonds (Land funds)	Building land consolidation
Burgenland	+	+			+
Carinthia	+			+	
Lower Austria	+	+			+
Upper Austria	+		+		
Salzburg	+	+	+	+	+
Styria	+	+	+		+
Tyrol	+			+	+
Vorarlberg	+	+			+
Vienna	+			+	+

for spatial planning contracts between municipalities and property owners. Private law contracts are used as supplementary and important spatial planning instruments in the context of building land zoning.

In many cases, property owners are not just **given the option of use** through the classification as building land, but before any changes to the zoning, contracts are entered into that impose different obligations on property owners. From a spatial planning perspective, private law contracts between municipalities and property owners were originally entered into primarily to secure by contract the **swift use** of building land **in conformity with zoning** and in this manner encourage building land mobilisation. The classification of land as building land in the zoning plan (only) creates the option under planning laws to erect building structures for specific uses – no general obligation to build is imposed on property owners. Often, zoned building land is not built up or sold to parties willing to build, even though it is developed and there is concrete demand within the municipalities.

Private law contracts offer flexible design options – unlike sovereign planning acts – and constitute an important form of **cooperative administrative acts**. Contracts are being used more and more by municipalities:

- **before land is zoned as building land** in cases in which the property owner is not the municipality (spatial planning contracts are restricted to new zoning)
- **before the sale of the property** in cases in which the property owner is the municipality.

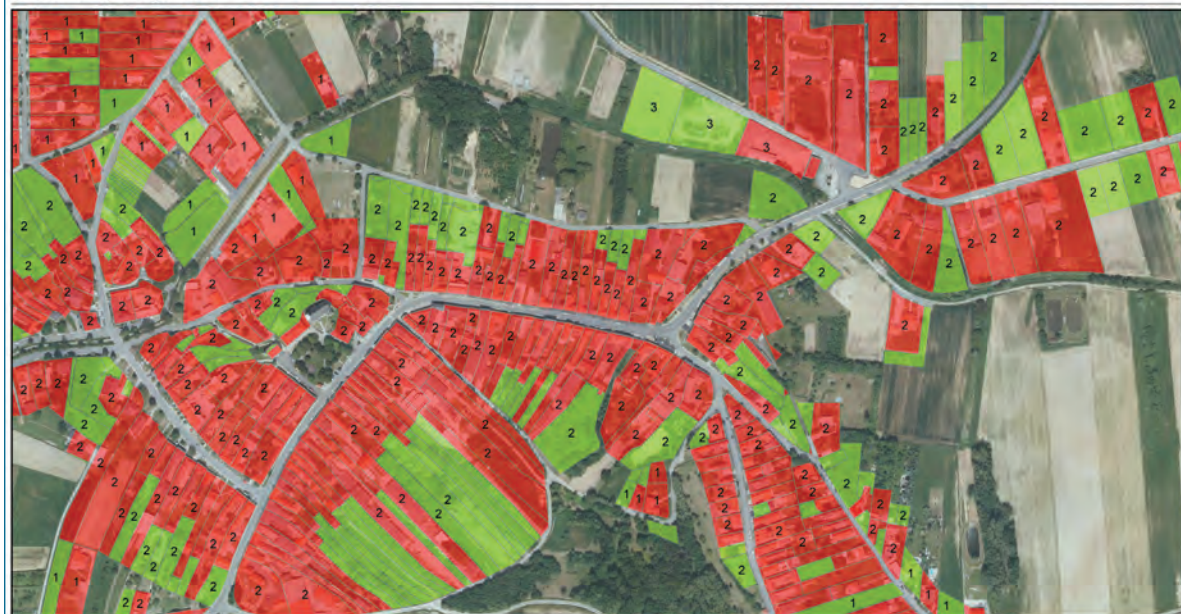
Usually, spatial planning contracts may impose obligations on property owners to undertake **different acts**, especially to develop land in conformity with the zoning within a certain period (**contracts on use**). The experience of municipalities has shown that this aspect of building land mobilisation dominates planning contracts, but in many cases is supplemented by other agreements and in this manner enlarges spatial planning through private-law contracts. The following may also be used:

- **Lease contracts** (leasing of properties to municipalities or third parties it has named; leasing of parts of areas for public purposes, e.g. for kindergartens),
- **Contracts for development or contracts for connection costs to municipal infrastructure** (share of property owner in connection costs),
- **Land consolidation contracts** (contracts to improve plot structures),
- **Promotion contracts** (contracts for the promotion of social housing and subsidised housing).

Fig. 32: Land zoned for building, but not yet developed, Draßmarkt Bgld (red: developed building land, green: undeveloped building land)

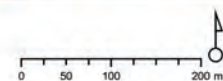
Gewidmetes, unbebautes Bauland - Beispiele

Draßmarkt, Burgenland



Legende

■ nicht bebaut	1 - überwiegende Wohnnutzung
■ bebaut	2 - überwiegend gemischte Nutzung
	3 - überwiegend betriebliche Nutzung
	4 - Sonstige Nutzung



ÖROK Atlas© 2016

The zoning of building land is not influenced by the contract, but nonetheless is a condition precedent for the contract to become effective – the content of the contract takes effect only after the building land is zoned. Municipal zoning decisions are not permitted to be prejudiced by private law contracts with property owners. Spatial planning contracts (only) trigger conditional performance by the municipality, namely the rezoning of a property which in turn triggers an obligation to act on the part of the property owner.

Rulings by the high courts to date and extensive relevant literature make it clear that private law contracts are **generally permissible** as supplementary measures in spatial planning law. However, the **legal framework** for spatial planning contracts is **tight**, especially in the concrete wording of a contract. Generally, civil law contracts feature the key legal aspects set out in the following.

- **Legal basis of spatial planning contracts:** A condition for private law contracts for the purpose of achieving spatial planning objectives is the existence of the authorisation under Land laws to enter into spatial planning contracts.
- **Optional spatial planning contracts:** The Constitutional Court passed decision VfSlg. 15.625/1999

on Salzburg's spatial planning contracts, in particular, against the mandatory linking of private law contracts with sovereign zoning determinations.

- **Prohibition of coupling of sovereign and private law administration:** The mandatory spatial planning contracts pursuant to the Salzburg model made the issuance and amendment of regulations contingent on the contents of private law contracts between municipalities and the individual property owners so that spatial planning plans were no longer exclusively based on the law or lacked the required legal basis.
- Special attention is given to the **legality principle** in spatial planning contracts pursuant to Art. 18 Constitutional Act. Municipal planning bodies are not permitted to make their zoning decisions contingent on civil law contracts. It would be unconstitutional if zoning were to be determined only for reasons constituted by the contents of a contract. A municipality as a regulatory body is not permitted to be (solely) dependent on the intents of private parties.
- **Equal treatment:** When entering into and defining the content of a contract, the equal treatment of the concerned contractual partners must be guaranteed. Thus, e.g. spatial law in Vorarlberg (§ 38a

Vorarlberg RPG) stipulates that the municipality, when entering into and drafting agreements, must pay special attention to the equal treatment of the concerned property owners.

The **area of use** of private law contracts is **restricted** to property owners who are willing to offer something in return for the zoning of building land. Property owners whose properties are zoned as building land or that are likely to be zoned as building land will probably not enter into any obligations under building land guarantee contracts, because there is no added value for them from these contracts. Therefore, contracts are effective mainly in the case of **new zoning of building land**, but not for combatting the excessive surplus of building land in municipalities.

7.7.2 Limited-period zoning as building land

Some spatial planning laws include the possibility of **limiting the time period for development** of undeveloped land when **classifying building land**.⁷ If the land is not developed in conformity with the plan within the deadline, sanctions such as rezoning of building land back to original status without compensation or charges may be imposed. The **possibility of sanctions** after the period expires without fruition is a possibility for municipal planning bodies to exert pressure on property owners to quickly implement building land zoning and thus encourage property owners to act in conformity with the plan. A limited-period zoning as building land may generally be broken down as follows:

- **Scope of application:** The spatial planning laws include the possibility of limited-period zoning as building land mainly for **new zoning**. In a few cases, limited-time zoning for already zoned but unbuilt land is permissible within the scope of a planning revision (Styria). This creates more possibilities for municipalities of mobilising undeveloped building land.
- **Obligation or empowerment:** In the case of empowerment through legislation, municipalities **may** specify limited-time zoning as building land according to local needs; they are under the obligation only in few cases. Since 1 January 2018, Salzburg has been limiting **all** new building land zoning for specific periods, and the **subsequent zoning** must be defined already at the time the zoning is decided (usually as general undeveloped land/farmland or transport areas).

→ **Deadline:** The deadlines for building land use in conformity with the zoning vary in the spatial planning laws; generally, deadlines of several years (5 to 10 years) are granted for the realisation of a plan.

→ **Sanctions:** A key element for limited-period zoning is the respective sanctions. On the one hand, the individual sanctions have different effects and, on the other, (even) the “threat” of sanctions may help achieve behaviour by the property owners in conformity with the zoning plan. The higher the charges or the greater the loss in value for the property owner after the expiry of the deadline, the more likely the development deadline will be met. Possible sanctions after the expiry of the deadline include:

- **Rezoning** to undeveloped land or **back** to the former zoning category,
- **General possibilities for changes** by the municipalities, with no compensation claims arising in the case of any restrictions to use,
- Property owners are obligated to pay an **investment charge**.

Spatial planning laws **do not include expropriation** as a possible sanction in connection with time-limited zoning as building land.

7.7.3 Collection of infrastructure charges

Financial burdens for property owners as a consequence of hoarding building land and not developing zoned and connected building sites may have substantial land mobilisation effects, with the incentive being dependent on the amount of the burden. On the other hand, models based on charges for building land zoning may be attractive to municipalities due to the financial inflows. As is true for **fiscal instruments**, also mandatory charges for hoarding building land may create hardship and conflicts, and therefore, these instruments – up to now – have been used only in some Länder. The collection of charges in the case of building land zoning gives municipalities an **early cost reimbursement for infrastructure measures**, also considering that any connection fees would only be due after the building permit has been granted.

As the financial charges models are usually designed to give property owners a **choice** between development in line with the zoning plan or incurring a financial burden, it is not guaranteed that the desired spatial planning effect will be achieved. Depending

⁷ A current draft for an amendment to spatial planning law in Vorarlberg prescribes limited-period zoning for building land.

on the amount of the charge, such models create pressure on property owners to mobilise land and municipalities receive additional or advance revenues – which due to the current budget situation of many municipalities is quite appealing.

For example, the **Upper Austrian spatial planning laws** (Oö ROG) prescribe the collection of **connection and maintenance charges** for undeveloped properties as a measure to mobilise building land and the early reimbursement of municipal connection costs. Municipalities must charge property owners of unbuilt properties a fee for the connection to the municipal infrastructure of the construction sites – depending on whether the connection to municipality-owned water supply or waste water utility or public traffic area – by issuing an official notice which is to be paid in annual installments of 20% for five years. As of the fifth year, the municipality must continue to charge a maintenance fee for unbuilt properties; the obligation to charge a maintenance fee ends with the payment of the equivalent connection fee.

Even though this legislation will take effect only as of 2023, it is pointed out that the 2017 ROG Salzburg amendment will also introduce an **infrastructure charge** which has similar features as the one in Upper Austria, but is around ten times higher. Therefore, Salzburg's legislator expects the **mobilisation** of unlimited-period reserve building land in central areas over the medium term.

Some Länder have regulations that permit municipalities to charge **advance fees** for the erection of infrastructure facilities. The empowerment of municipalities to collect (in advance and partially) fees for connection work is laid down in law in some Länder in the building codes.

7.7.4 Procurement of building land – property purchases

Active land policy is increasingly being pursued by the municipalities themselves in some Länder, for example, through the autonomous purchase of properties or through outsourced legal entities who have the task of procuring land. The active land policy of the municipalities is supported by spatial planning law in several Länder by **Bodenbeschaffungsfonds** (TROG) (land procurement funds), **Baulandsicherungsgesellschaften** (Slbg ROG) (building land procurement companies). In Vienna, the **Wohnfonds-Wien** (Vienna housing fund) and the Wirtschaftagentur (business agency) are also engaged in purchasing proper-

ties and in this manner securing reserve land. Unlike sovereign planning measures, active land policy and **municipal reserve land procurement** is better able to deal with planning-relevant interests flexibly, specifically and implementation-oriented – and depending on how it is embedded institutionally, a municipality may directly influence implementation, prices and users. As a consequence of the burden on municipal budgets, the options open to municipalities for comprehensive interventions in the property market are often limited, with subsidies from the Länder being made available to help offset the costs. Thus, in some Länder, municipalities are financially supported in their purchases of properties, for example, by interest subsidies.

7.7.5 Building land consolidation

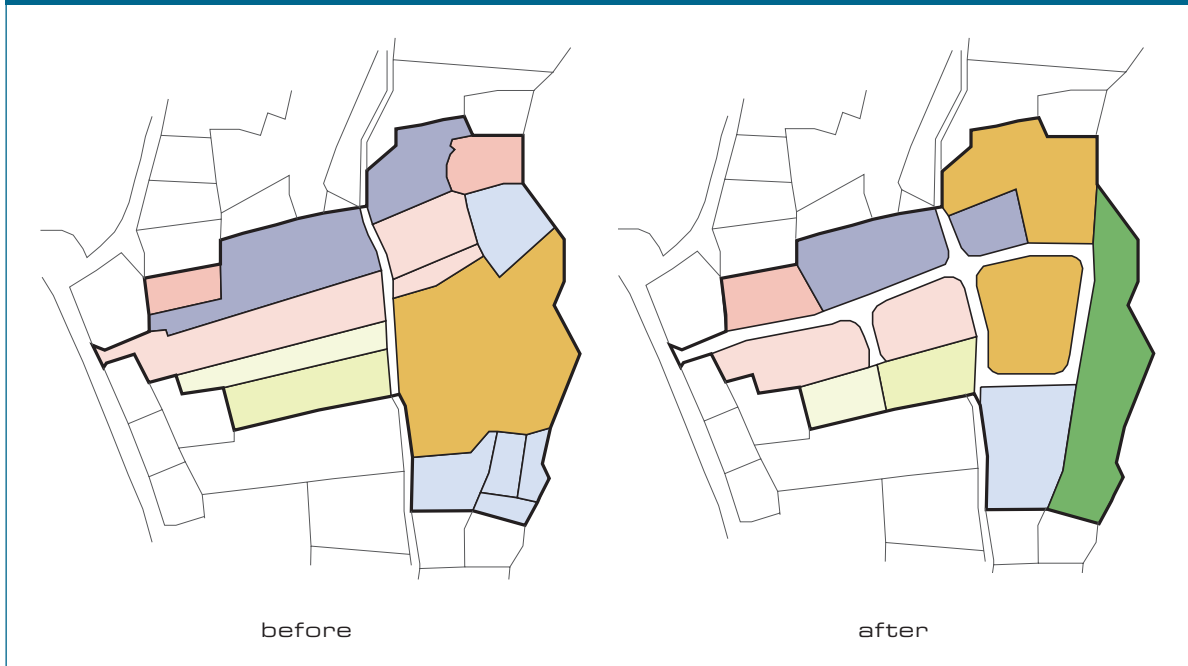
A principal requirement for the space-saving development structures is that building must actually be possible on the relevant properties. In many cases, the current **shapes of the properties** hinder the rapid development of the land, because they have an unsuitable configuration due to the size, location and shape. The land policy instrument of **building land consolidation** may be used for the rearrangement of the areas for which a meaningful development is hindered or rendered extremely difficult due to unsuitable lot structures. Building land consolidation **re-defines the arrangement of the plots of land** in a specific area, which due to the existing arrangement of the plots prevents orderly and space-saving land development and a meaningful use, in such as way so as

- to create plots of land with a **location, size and shape** that permits the meaningful use
- and also to make available the area needed for **transport access** and for infrastructural facilities.

Usually, the Länder use building land consolidation to improve the legal conditions of the land for a meaningful use of larger properties, which is often a requirement for the **realisation of building projects**. In particular, in the case of larger areas that are made up of many individual plots of land belonging to several property owners, a change to shape of the properties is often a requirement for the successful realisation of a project. Usually, it may be assumed that the value of the new distribution of the mass is higher than the original consolidation mass, because the **meaningfully shaped plots of land** permit better and higher-value land development.

Building land consolidation may be done on a **voluntary basis**, if all property owners consent to the

Fig. 33: Building land consolidation – Example for the improvement of the shapes of plots of land



Schindelegger, own presentation

building land consolidation procedure and the subsequent outcome of the procedure. Generally, complexity is greater the higher the number of properties and property owners.

Building land consolidation is ex officio of varying importance in the Länder. The custom of building land consolidation is established by law in several Länder, in particular, Styria, Lower Austria, Tyrol

and Vorarlberg in the spatial planning laws, and in Vienna in the Building Code. In these Länder, building land consolidation may also be initiated by the public authorities ex officio and executed against the will of the individual property owners, which is an advantage for the realising of planning projects. In Salzburg, it is now possible on the basis of § 19 Sllbg ROG for the municipality and the property owners to enter into **consolidation agreements**.



A background map of a coastal region, likely a bay or estuary, with a grid overlay. The map shows land areas in light blue and water areas in a darker blue. The grid consists of a vertical line and two horizontal lines, dividing the map into sections. The land areas are characterized by a dense network of small, irregular shapes, possibly representing buildings or vegetation. The water areas are more uniform in color.

8

Spatial Planning Procedures and Processes

8 SPATIAL PLANNING PROCEDURES AND PROCESSES

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

The procedures for creating or changing the different spatial plans have always been very important for planning decisions, especially the specific stages of the procedure and their terms. The **high relevance of procedural rules** results from the principle of “legitimation through procedures” according to which verifiable and transparent procedural steps ensure compliance with the objectivity mandate of the Constitutional Act – despite the planning discretion allowed – and thus provide for conclusive decisions.

Accordingly, spatial planning law defines **differentiated procedural provisions** for the instruments of regional and local spatial planning that vary across the Länder. While the procedural rules for the creation and for amendments to **regional spatial plans** define simple procedural steps, the formal provisions for **local spatial plans** are quite complex with respect to the steps of the procedure. While some Länder exhibit a **tendency to standardise** their procedural rules, especially in local spatial planning (e.g. § 2 WBO, Vienna Building Code) has only one procedure for determining and/or amending the zoning or development plan, with a “simplified procedure” for minor changes being developed for future use), other Länder have **substantial differences** in the procedural rules for the various spatial plans (e.g. TROG, Tyrolian Spatial Planning Act). Comprehensive procedural provisions apply mainly to planning instruments which may trigger relatively far-reaching interventions in property rights (zoning plan, development plan).

When “**planning is understood as a process**”, the rules governing planning procedures and workflows are of special relevance, because the differences in the procedural steps and workflows are very important for the planning outcomes. Despite the rising diversity of use, conflicts of interest and a growing number of planning actors, the core areas of sovereign planning procedures have hardly changed over the years. In planning practice, the statutory planning procedures follow long-standing routines, with the **requirements** in each of the procedural steps – often despite an unchanged legal basis – showing a rising **tendency**.

What has increased in any case are the **types and forms of the procedures**. A look at a planning practice shows that not only the spatial plans and processes defined by law are being applied. In the past years, spatial planning has become “**de-standardised**” and more flexible. As diverse as the planning contents, general guidelines, strategies and concepts and traditional binding regulations on use and land development may be, the respective planning processes and the involvement of citizens are also very diverse. In this context, the range of participation options includes informing the parties affected by the planning, the option of submitting statements of opinion, participation in discussions as well as in various forms of cooperation and collaborative decision-making processes.

With respect to participation in procedures, it may generally be assumed that the number of parties involved in the **general and basic planning tasks** is quite large, although of course, the maximum option open to them is filing statements of opinion and restricted rights to information. The more **specific and project-related** the plans and the measures, the more limited the group of parties involved. However, these have a stronger position (regarding their rights), in particular, they have party status in procedures.

The growing diversity of instruments in spatial planning has created additional procedures, thus spawning a **very wide range of process-like elements**. Thus, there is a general difference between the procedures in regional spatial planning and local spatial planning, while specific planning and coordination processes are a feature of spatial plans for planning regions or intercommunal plans. Apart from spatial plans that are traditionally governed by public law, agreements are increasingly being used at the municipal level in the form of **spatial planning contracts**, thereby raising the significance of formal rules under civil law.

The diversity of procedures is growing, in particular, on account of the **informal processes at all levels of**

measures. These measures are not usually regulated by formal procedural rules under law, but are organised for specific situations or actors. Informal procedures (e.g. negotiation processes, consensus decisions, persuasion) are gaining ground over sovereign instruments, with aspects such as flat hierarchies, flexibility, integrated planning flows and informality being features that may contradict traditional administrative structures.

8.1 Planning Procedures in Regional Spatial Planning

The preparation and amendments to **instruments of regional spatial planning** (Land development programmes and/or concepts, regional and sectoral spatial planning programmes) are subject to largely uniform procedural rules. These rules focus on requirements and information obligations, options for submitting statements as well as on provisions for strategic environmental assessments. Usually, the formal procedures start with a **completed draft of a regulation** that the Land government and/or the municipality must make available for inspection for a period from four to eight weeks. When preparing a development programme in Salzburg, the findings of the investigation of structures and the intended determinations must be presented in a report on intentions and activities.

Apart from the draft, when an environmental assessment is required an **environmental report** is also due; if an environmental assessment is not required, the reasons must be presented. Additionally, the draft must be sent to various territorial authorities (federal government, neighbouring Länder, municipalities affected) and institutions (e.g. chambers, involved planning bodies or public authorities) for their **statements of opinion**. The draft and the documents made available may be inspected by any person and **written statements of opinion** may be submitted by anyone. Generally, the planning authorities must **consider the objections** raised and the statements of opinion submitted. In the case of regional spatial plans, the participation of the public is limited, because the plans do not have any direct legal effects on individuals and/or on property owners. The spatial planning programmes adopted through regulations are made available as information to the public, and in some cases anyone may submit a statement of opinion.

Pursuant to spatial planning laws in Styria (Stmk ROG), the municipalities must include explanations in their statements on whether or not and to what

extent the draft entails compensation claims when carrying out the tasks of local spatial planning. In some Länder, the Land government must obtain a statement from the **Spatial Planning Advisory Council** (Raumordnungsbeirat) regarding the drafts of the regional spatial plans.

After the **regional spatial plan** has been approved by the Land government, the parties that raised objections in their statements must be notified in writing as to whether the objections have been taken into consideration. **Legally binding regional spatial plans** must be made available to the general public for inspection by the office of the Land government and by the concerned municipalities.

Special procedural provisions apply to **regional spatial plans** when the corresponding regional associations have been established (e.g. in Upper Austria, Salzburg, Tyrol). **Regional associations** must prepare regional programmes which define the objectives and measures needed to achieve the regional development desired. The regulations governing the availability for inspection and statements of opinion correspond largely with the provisions for the spatial plans of the Länder. The Land government must declare the regional programmes presented as binding by issuing a regulation. Grounds for objections must be communicated to the regional association for review.

Within the scope of regional spatial planning, **informal guidelines and concepts** are prepared for which no formal procedural provisions are defined for their preparation. As regards the informal planning instruments, a general trend towards a **new planning culture** in the form of **cooperative planning** is emerging. Examples are the spatial plans adopted by the Tyrol Land government “ZukunftsRaum Tirol” and the open participation and development process “Vision Rheintal”.

8.2 Planning Procedures in Local Spatial Planning

The **planning procedures** are gaining importance especially at the local level, with a difference being made between formal planning procedures and informal planning processes. Planning is understood more as a process in the course of which the different interests in space are considered and coordinated and also discussed with the parties affected by the plans. While the **formal planning procedures** are constant in their basic features, in practice **participative planning**

processes are becoming more widespread that use flexible and ad hoc information, participation and decision-making models.

8.2.1 Formal planning procedures

Spatial planning laws contain detailed provisions for the preparation and amendment of **local spatial plans**. The **regulatory nature** of local spatial plans entails legal requirements for procedures and creates conditions that are binding on the decision-making bodies when they prepare plans. Generally, a violation of material procedural provisions renders the local spatial plan unlawful. Compliance with **each step of the procedure** is mandatory when preparing plans. The procedure is characterised by the following:

- Inclusion of the public, participation,
- Screening procedure and strategic environmental assessment for certain projects,
- The Land government has the right to reserve judgement on the approval.

It is pointed out that in the following sections that refer to the planning procedures for the preparation of the **zoning plan** or amendments to it, the procedural steps for local development concepts and development plans are similar, though of course, there are exceptions. Thus, the procedure for the preparation and amendments to development plans deviates only slightly, if at all, from the procedures for zoning plans.

From a formal perspective, it is pointed out that **simplified or shortened amendment procedures** apply when amendments to plans have certain characteristics (esp. in the case of minor changes or if the changes comply with the objectives of local development concepts or if affected property owners give their consent).

Participation of the public and citizens

The **participation of the public** is a central element in planning procedures and pursues several goals:

- Publication of the planning materials, objectives and measures (**information function**),
- Inclusion of the public (**democratic function**),
- Opportunity for interested parties to submit a statement of opinion (**legal protection function**),
- Improvement of the acceptance of planning measures (**integration function**).

One of the main conditions for statutory procedures when preparing local spatial plans is the **inclusion of the public** in the planning process, with essentially (only) two goals:

Abb. 34: Zoning plan – planning stages



Own presentation

- to give **interested parties** the possibility of obtaining **information** on the draft plans;
- to give parties affected by the plan an **opportunity to submit a statement of opinion** within a defined period.

Planning law often does **not have any provisions granting comprehensive participation and co-determination rights**, but mainly information and hearing rights. All spatial planning laws contain minimum provisions for providing information and for hearing the interested parties and parties affected by the plans. These provisions have in common that in procedures by which regulations are issued, there are no party rights like in those for the issuance of official notices.

Mandatory information disclosure on draft plans

The municipal planning authority must inform the public of its planning activities, with a difference being made as to whether it is the **intention to prepare a plan** or to inform on a draft plan.

More and more often, it is the case that the mayor must promulgate the **intention to issue** or amend a

zoning plan by calling on the parties affected by the plan to state their interests in the planning within a certain period (e.g. development land wishes, development intentions, property divisions). In any case, the draft zoning plan must be made available to the public for inspection before the planning authorities reach a decision.

Some spatial planning laws stipulate the **proactive information of the public** or are drafted with this aim in mind. Planning law in Styria (§ 29 (4) Stmk ROG) stipulates that if it is necessary to conduct an environmental impact assessment, the zoning plan including an environmental report must be presented to the public within the framework of a public meeting.

Possibility of submitting a written statement

Within the period for inspection – usually six weeks – the citizens of the municipality have the possibility of submitting a **written statement of opinion** on the draft zoning plan. The **group of persons entitled to submit statements of opinion** varies widely in the Länder and can specify that these may be any person (e.g. Burgenland, Lower Austria) or a person who can claim a legitimate interest (e.g. Carinthia, Upper Austria, Salzburg) or citizens of municipalities or property owners that are affected by the plan (Vorarlberg).

The **handling of objections** is regulated – slightly – differently in the spatial planning laws. Generally, statements of opinion submitted in time must be

- brought to the attention of the municipal council before the decision to adopt the zoning plan is reached,
- deliberated by the planning authorities or
- considered by the planning authorities before the regulation is issued.

Statements of opinion submitted or objections must be considered in the planning process, even if they are ultimately not included. The parties having the right to submit statements of opinion **do not have party status** in the procedures for the issuance of local zoning plans or amendment thereto. As the local spatial plans are almost all issued in the form of **regulations**, neither the property owners nor other parties affected by the zoning plan have a statutory entitlement to have their objections met. The right to submit statements of opinion **does not give** the parties affected by the zoning plan the **right to claim certain planning contents**. Neither do the parties affected by the zoning plan have any entitlement to the **issuance of plans or to amendments to these**.

The statements of opinion received must be submitted in some cases to the Land government for approval within the scope of the approval procedures of the supervisory authorities and this may have effects on controlling activities. The denial of approval for the local spatial planning programme by the supervisory authorities due to a failure to consider objections to the draft may happen only in the case of severe breaches. If the municipal council has **dealt with the statements of opinion** and this is proven and has also **considered** the statements in the decision-making process, the planning authorities may reject requests for amendments.

Formal minimum requirements

The applicable provisions regarding information and hearings in planning legislation provide for **substantial room for discretion** in practice. The time defined by law and the provisions on the form of inclusion of the public are **minimum requirements** that must in any case be observed by the planning authorities. When complying with statutory provisions, municipalities may substantially enlarge the scope of co-determination and enable actual citizen participation during the planning phase in the sense of permitting citizens to define and decide.

The way the **public is informed** of the drafts and planning results is largely the responsibility of the parties responsible at the municipality. **Open planning processes** and cooperative decision-making are not excluded and have become standard planning procedure at many municipalities today. The systematic separation of responsible planning parties and the addressees of the planning has been replaced in many instances by participative processes.

Planning talks and change proposals

Relatively new are the provisions in the spatial planning laws of Vorarlberg (VlbG RPG) and Tyrol (TROG) that given property owners a better position in rezoning procedures. Thus, property owners are now entitled to propose **changes to the zoning plan** to municipalities. Subsequently, the mayor – or person charged with the task – must discuss such change proposals with the affected property owners (**planning talks**) in person within three months of receipt. If no procedure to change the zoning plan is initiated within six months of receipt of the change proposal, the reasons must be notified in writing. The property owners concerned may demand that the municipal council deal with the change proposal within two months after receipt of said notice. In this case, the municipal council must, within six months, either in-

initiate a procedure to change the zoning plan or decide that it is not to be changed. In Vorarlberg, the decision to reject a proposal including the statement of reasons must be submitted to the independent advisory board of experts (Unabhängigen Sachverständigenrat) of the Land government for a review.

Screening procedure and strategic environmental assessment

The Strategic Environmental Assessment Directive 2001/42/EC enacted in spatial planning laws and in the Environmental Planning Act in Carinthia and in the Environmental Assessment Act in Tyrol stipulate that for certain planning measures a **screening and strategic environmental assessment** must be conducted. On the one hand, a strategic environmental assessment should include an evaluation of the **potential environmental effects** in the case of certain planning acts and must be considered in planning decisions. On the other hand, the **public** should be involved in the planning process. A strategic environmental assessment takes into account and evaluates the probable major environmental impacts of plans and programmes, which in contrast to project environmental assessments do not refer to just one project.

The strategic environmental assessment is generally part of the preparation and amendment process for **local development concepts and zoning plans**, while for development plans this is the case only in some Länder. A strategic environmental assessment is required when a municipal planning measure is the basis for a project with a mandatory environmental impact assessment (EIA pursuant to EIA Act (UVP-G)) or if the project may have major effects on a European protected area. Even when neither of the criteria apply, a mandatory strategic environmental assessment for local spatial plans is to be conducted if a planning measure will probably have major impacts on the environment. This is usually clarified within the scope of the **screening procedure**. If the changes to the plan are so minor that it is clear from the start that these will not have any negative effects, no strategic environmental assessment must be conducted. In this case, neither is a separate assessment of potential impacts on the environment required.

If the execution of a strategic environmental assessment is required, an **environmental report** must be prepared that presents and assesses the substantial impacts on the environment. Within the framework of an **alternative assessment**, additional planning alternatives must be prepared and assessed. For example, the draft for an amendment to a zoning plan

is to be made public together with the environmental report and the possibility of submitting written statements of opinion must be given. The planning authorities must consider the environmental report and the respective statements of opinion in the zoning decision process; a **summary declaration** must explain how these have been considered.

Approval by the supervisory authorities

As a rule, the zoning plan requires approval by a **supervisory authority**. The Land government has authority over new zoning plans and usually also over changes to the plans, although there are exceptions in certain Länder ("shortened procedures"). A principal control instrument for defining the content and for the planning procedures is the supervisory approval when spatial plans or amendments to spatial plans are adopted. The legal basis for **reservation of judgement on decisions for local spatial plans** by the Land government is Art. 119a, Constitutional Act. Art 119a (8) Constitutional Act defines the reservation of judgement on decisions as a supervisory means of the municipality, according to which individual measures to be taken by the municipality in their own areas may be made contingent on the approval of the supervisory authority in the respective applicable laws.

In comparison to zoning plans, **local development concepts** are very different regarding the position of the Land government in the approval process. Thus, in addition to the reservation of judgement on decisions (as for zoning plans), there are hearing rights (in Vorarlberg, the Land government must be heard before the resolution (no regulation) on the spatial development concept) and also the option to submit statements of opinion (within three months, the draft of the local development concept must be submitted to the Land government in Carinthia for a final expert statement).

Although the **municipality** may define the **zoning in its own area**, its sphere of influence is not unrestricted. All Länder (with the exception of Vienna to which the provisions of Art. 119a Constitutional Act do not apply pursuant to Art. 112 Constitutional Act) have made use of the option of being able to make local spatial plans contingent on the **approval of the supervisory authority**. Usually, local spatial plans must be submitted for supervisory approval after being adopted by the municipality and before promulgation by the Land government, with the respective planning materials having to be submitted. Before supervisory approval is denied, the Land government must

as a rule provide the reason for the denial and give the municipality an opportunity to make a statement. Supervisory approval and the denial of approval is promulgated by **official notice**. The statutory reservation of judgement on approval gives the Länder only the power to approve or reject a resolution of the municipality, but not the right to enforce a change to the content of the resolution adopted. The consequence of a denied approval by the supervisory authority is that the concerned plan cannot be promulgated. Only the **municipality** is a **party** in the supervisory approval procedures (not the property owners).

Therefore, spatial planning laws contain a **number of assessment criteria** for the supervisory review of local spatial plans, in particular, of zoning plans and local development concepts, with the possibility to differentiate between formal and contextual criteria:

- **Review of the Procedures:** Some spatial planning laws (e.g. Upper Austria, Salzburg, Tyrol) explicitly state formal errors and deficits in the procedural requirements as grounds for denial. Also in Länder that do not specify procedural processes as an assessment criterion, it may be assumed that a consequence of (major) deficits in the statutory procedural steps is the denial of supervisory approval, also considering that almost all spatial planning laws contain general clauses such as “otherwise unlawful or illegal”.
- The **assessment criteria regarding the content** for the supervisory procedures may have varying degrees of specificity, and though some criteria hardly give the municipalities room for discretion, other criteria contain less restrictive conditions. Only when it is **clearly** a case of **unlawfulness** on the part of the municipalities, is it permitted for the supervisory authority to take corrective action.

When **reviewing the contextual criteria** within the scope of the supervisory procedure, the differentiations set out below may be made. Above all, there may be differences in the room for discretion in assessments.

- Contradictions to the content of **hierarchical higher-ranking spatial plans**, in particular, to regional spatial plans, and in the case of zoning plans, to local development concepts usually results in the denial of supervisory approval. Depending on the case, the conditions are often clear in this respect (e.g. regional settlement boundaries or green zones) and contradictions are usually a reason for the supervisory authority to deny approval.
- Contradictions to the **provisions of spatial planning law** that eliminate the room for discretion

of municipalities (e.g. spatial planning principles and zoning bans for building land) also result in the unlawfulness of local spatial plans.

- Within the scope of supervisory approval, a differentiation must be made between **binding planning based on federal laws and on Land laws**, which, on the one hand, suspends municipal planning powers, and on the other, those that only restrict municipal planning activities. In the case of legally binding planning measures of the federal government, e.g. in connection with railways and federal roads, the planning competence of the municipalities is suspended thus rendering the municipal planning determinations that contradict the federal requirements unlawful.

On the other hand, there may be **use restrictions due to federal and Land laws** that give municipal planning a wider scope of discretion and that are not outside the scope of municipal planning from the start. Therefore, the mere existence of forested areas alone does not constitute regional sectoral planning that would fully suspend the planning competence of municipalities in this area.

- A contradiction to **other content assessment criteria** such as restrictions to an orderly, economic, social and cultural development of other municipalities or a high financial burden on municipalities must be – if regulated by spatial planning laws – investigated by the supervisory authority, even though more detailed provisions are often lacking. As in the case of other assessment criteria, the quality of processing of the data and the facts of the matter as well as the coherence of the deliberations and assessment are relevant for reaching decisions in conformity with statutory requirements.

Promulgation of the approved zoning plan

An (amended) zoning plan becomes legally effective when it is promulgated as stipulated by law. Valid zoning plans are **public documents** and must be **available for inspection** to all persons. They are generally made **available for inspection** at the **respective municipality** and at the competent **office of the Land government**; zoning plans are also increasingly being made available in digital form.

8.2.2 Informal planning processes

The sovereign planning structures are increasingly being enlarged and **informal planning processes** are encroaching on their domains. Planning contents are increasingly being determined through coordination and acceptance aspects that depend on the collaboration of the individual actors in the planning process.

dures. In this context, the number of actors involved in a planning process has increased and the tasks are being reassigned. Thus, in the implementation of planning objectives, the hierarchical relationship between planning bodies and the parties affected by the planning is no longer the sole decisive factor, but **cooperative planning forms** are supplementing the normative decision-making structures.

This creates differentiated and dynamic planning processes that go beyond the strict formal procedures by involving many different parties affected by the planning, citizens, entrepreneurs and social organisations. The involvement of several actors in the planning process is accompanied by the growing significance of informal planning instruments. As the respective actors often have divergent interests, mediation between individual interests and efforts to help achieve consensus is growing in importance.

The city of Vienna has prepared a new guidebook on participation entitled “**Praxisbuch Partizipation - Gemeinsam die Stadt entwickeln**” (Practice Manual - Developing the City Together) that compiles the methods and measures needed for the **participation processes**. An essential part of the manual is a process planner that is used by the city administration as a guidebook for the conception of participation processes. A **methods matrix** offers a practical overview of the suitable tools for participation to involve the entire city, districts or just local participation. The foundation for the practice manual was laid in 2012 in a participatory process in which the collected experiences, challenges and wishes were collated. Based on concrete examples, the various criteria are analysed, such as the best point in time for the use of the methods, the intensity of the participation, the duration and the costs of the process and the ideal number of participants.

The various and diverse forms of participation of interested parties takes place in many Länder, regions and municipalities within the framework of **Local Agenda 21**, which supports dialogue processes based on the principle of sustainable development. The **range of processes and methods** includes interviews with citizens, talks on future trends, working groups for specific themes as well as the establishment of citizen councils and organisation offices. Within the framework of Agenda 21, the processes were conducted, for example, for jointly preparing mission statements or concepts, for the organisation of activities as well as the development and implementation of concrete projects (also) on themes of relevance for planning.

8.2.3 Changes to local spatial plans

As local spatial planning instruments are forward-looking, it **must be possible to change** these in order to react to changing overall conditions, false assessments or new objectives. Therefore, binding local spatial plans are classified as **regulations** that – unlike official notices – are generally more flexible. However, the general possibility of amending regulations is **not unrestricted** for local spatial plans. The amendments to spatial plans adopted as regulations are contingent on restrictive conditions which that prescribe or permit municipalities to respond in different ways so as to be able to account for changing framework conditions. Thus, from the perspective of constitutional law, there is a “plan guarantee” for local spatial plans, and based on the principle of “equal treatment”, the “principle of binding nature of the plans” and the “principle of legitimate expectations” can be derived.

The Constitutional Court specifies several audit steps when **reviewing the permissibility of amendments** to zoning plans. Thus, the Constitutional Court usually first checks (after verifying the legitimacy of the application) if the **general requirements for amending** spatial planning laws are given, with the respective reasons being viewed as very important. Subsequently, the **basic research is reviewed** as well as the legitimacy of the **interest considerations**. The planning authority must furnish proof that the framework conditions and planning requirements (e.g. natural space, economic or social circumstances, new planning intentions) have changed compared to existing plans. An amendment is unlawful if there is no relevant basic research or if the required interest considerations were not conducted properly.

Spatial planning laws restrict the possibility of amending valid plan contents in order to protect legitimate expectations in local spatial plans, with considerable **differences** in the individual regulations. Most amendment provisions have one thing in common: they differentiate between the **obligation and the authorization** to amend local spatial plans.

Obligation to amend

In accordance with the constitutional norm that makes municipal self-administration subject to the laws and regulations of the federal level and the Land as well as the planning hierarchy defined by spatial planning law, there is an **obligation to amend local spatial plans** to conform to legally binding regional planning. When there are changes to binding plan-

ning requirements, the municipalities usually do not have room for discretion regarding adjustments to plans. Generally, the zoning plan **must be amended** when the general legal situation requires this and, in particular, when this is necessary

- as a consequence of the creation or amendment to a regional spatial planning programme, or
- as a consequence of the creation or amendment to a local development concept, or
- to avoid contradictions to federal or Land laws or regulations.

Moreover, some spatial planning laws contain an obligation to amend zoning plans in cases of “major changes to decisive circumstances” or “if this is required to ensure the common good”. The rulings of the Constitutional Court make it clear, however, that an obligation to amend a plan is only given in the case of **major changes to circumstances of relevance for planning**.

Authorization to amend plans

Generally, municipalities are only **permitted to amend** their local spatial plans in order to respond to changes to local circumstances, incorrect forecasts, new findings or other political intentions. Due to changes to the sectoral framework conditions and to basic planning materials, the municipal planning authorities have the option of making corrective interventions to the planning workflows by amending the plans. All procedural regulations have in common that amendments to local spatial plans are permissible – to a limited extent – with the amendment criteria not necessarily having to be identical for all local spatial plans. A comparison of the amendment provisions of spatial planning law shows varying authorizations. Generally, binding local spatial plans may only be amended if there are **material or important changes** to the planning materials. Material reasons for an amendment to local spatial plans must be proven by objective reasons. Based on the materials and planning rationale of the valid local spatial plans, proof must be furnished that the basic materials and planning conditions have changed.

Rezoning

In the case of rezoning of building land to a type of zoning that permits less or no development (esp. zoning as undeveloped/farming land), the options for use under spatial planning law and the related value of the property declines significantly (“**rezoning**”). In comparison to general plan changes through rezoning, special requirements apply to rezoning due to the scope of use, and, above all, a conclusive state-

ment of reasons is required explaining why the concerned property must be rezoned. In this context, the rulings of the Constitutional Court illustrate the stringent benchmark applied to the necessity assessment. The argument alone that there is a surplus of building land, for example, does not justify a rezoning. Within the scope of the mandatory interest consideration process, the reasons for the rezoning must be explained taking into account the land use to date based on verifiable basic research; the interests of the concerned property owners must be considered.

All Länder include provisions in their spatial planning laws on indemnification in the case of rezoning as compensation for **financial disadvantages**, albeit in varying amounts. When defining amounts of indemnification, the legislator has a certain **scope for discretion** – within the scope of constitutional conditions – and spatial planning legislators have made ample use of this option. A look at the overall picture of all the different indemnification provisions that govern compensation for any losses incurred reveals **several basic types**:

- In certain cases, there is **no indemnification** for the rezoning of unbuilt building land to original status, especially if the property concerned is not suitable as building land due to the natural state or the property owner concerned initiated the change in zoning or consented to it;
- In some cases, only compensation is paid for the **costs of preparing the land for development** that the owner carried out trusting in the zoning as building land;
- Sometimes claims are granted for adequate compensation for the **reduction in the market value** of the property (rezoning from building land to undeveloped land/farmland).

The compensation for reductions in value on planning grounds are granted regularly only **on request**. The application must usually be submitted within a certain period (one to three years) after the relevant changes to the plans take effect. The amount of the indemnification is specified in an official notice issues, which, depending on the Land, must be issued by the mayor, the district administration authorities or the Land government. The indemnification amounts must generally be paid **by the municipality**. Some Länder have provisions stipulating that **indemnification must be paid back** if within a period of 10 to 20 years after the payout, the restrictions to the use that reduced the value of the property are eliminated by a change to the zoning plan.

In **practice**, rezoning to the original status triggering large payments for indemnification are rare.

Review and further development

The preparation and adoption of local spatial plans based on regulations is not a one-time act. Municipalities are generally under the obligation to (periodically) **review** and further develop their development concepts and zoning plans. Some Länder have specifically defined **regular reviews** of local spatial plans, thus accounting for the need to make changes. For example, Vorarlberg spatial planning laws (§ 24 VlbG RPG) state that the mayor must convene a meeting of the municipal council at the latest every five years after the adoption or amendment to a zoning plan to discuss and **review** if there are conditions calling for a change to the zoning plan. Should this be the case, the measures required to change the zoning plan must be decided. Pursuant to Styrian planning law (§ 42 (2) Stmk ROG), the mayor must issue a call for proposals for changes to the local development concept and the zoning plan every ten years (**revision**). After the expiry of the period defined for submissions, the municipal council must decide if there are grounds for a change.

Development moratorium

Before issuing or amending local spatial plans, in particular, zoning plans, the municipal planning authorities may define a **time-limited development moratorium** for certain areas. During a development moratorium, approval of construction activity (building site assessments and permits) is only permitted if the project conforms to the general objectives of the planning. Thus, for example, Salzburg spatial planning law (§ 21 (2) Slbg ROG) states that the municipal council may issue a development moratorium by way of regulation for areas to be specified in detail if an amendment to the spatial development concept, the zoning plan or development plan is being planned and it is necessary to stop all work so that the planning is not made unduly difficult or impossible. Official notices that contradict the purpose of the development moratorium are specifically at risk of being rendered null and void in some Länder (e.g. Lower Austria, Styria), thus making it necessary to give a concrete description of the objectives in the regulation instating the development moratorium.

A development moratorium **loses effect** when the amended plans for the areas concerned take effect or at the latest two to three years after entering into force. A development moratorium imposed by the

authorities must in any case be lifted when the conditions for its issuance are no longer given. Pursuant to the Vienna Building Code (§ 8 (1) WBO), areas of the city that are not covered by development plans are subject to a development moratorium until such development plans are issued.

Simplified procedures for amendments to plans

Some spatial planning laws include procedural provisions, in particular, for small-scale rezoning, that make it **easier to change zoning plans**. Simplified procedures apply especially to the rezoning of undeveloped land/farmland into building land, while there are special restrictions in some cases for rezoning from building land to undeveloped land/farmland. These provisions have in common that for minor rezoning cases in which there are no reservations regarding spatial planning, the procedures are simplified, especially shortened public notification processes and no approval required from supervisory authorities. Apart from simplified and shorter procedures, the regulation is intended to shorten the entire duration of the procedure and increase the accountability of the municipalities. By using simplified procedures to amend zoning plans, some legislators have made the conditions for changing plans in some cases **much easier**.

Exemptions

Some spatial planning laws contain several options to achieve a **flexible handling of legally-binding determinations on use** in zoning plans, especially with the aim of making current building wishes easier to achieve. Apart from rezoning and thus an amendment to binding zoning plans by the planning authorities, projects may be realized based on **exemption provisions** that suspend the effect of the zoning plan.

8.2.4 Legal certainty in planning – regulatory review procedure

Legal certainty for citizens with respect to planning decisions within the framework of regulatory planning is an important component of Austrian administrative law. Unlike building regulations that permit the parties concerned and parties to the planning projects to file an appeal (complaint) against official notices enacting building permits, no such recourse exists for planning instruments imposed by regulation. The possible courses of action in the case of planning instruments imposed by regulation are explained in the following chapter.

Regulatory review procedure

As zoning plans and development plans are issued in the form of regulations, the **regulatory review procedure** pursuant to Art. 139 Constitutional Act by the **Constitutional Court** (VfGH) is of special importance. The Constitutional Court initiates the regulatory review procedure either ex officio or when an individual appeal has been lodged against the spatial plan imposed by regulation. The possibility of an additional regulatory review through a judicial review based on a petition filed by a **interested party** was created in 2013.

Review ex officio

In the case of building permits granted by official notices based on unlawful local spatial plans, the **interested parties in a building permit procedure** (in particular, property owners, developers, neighbours) may lodge an appeal against the official notice with the Land Administrative Court after they have exhausted the appeal instances at the municipal level. A ruling by this court may be appealed with the Constitutional Court pursuant to Art. 144 Constitutional Act and may result in a review procedure ex officio if the Constitutional Court has doubts about the lawfulness of the regulation being contested.

Individual applications

Pursuant to Art. 139 Constitutional Act, the Constitutional Court hands down rulings on the unlawfulness of regulations issued. An individual petition is permissible only under certain conditions.

The following conditions must be met to submit an individual petition:

- **Direct Infringement of Legal Rights of Petitioner:** A condition for the legitimacy of a petition is that the regulation being contested must in fact infringe on the legal rights of the applicant and – if the regulation is unlawful – thus violate these rights. A direct infringement in the legal rights of a petitioner is deemed given only if such infringement is unambiguously indicated by the provision itself with respect to type and extent, and the legal interests of the applicant are negatively affected – not only potentially, but also at present. Consequently, only property owners are legitimately entitled to submit a petition with a reference to local spatial plans.
- **Unacceptable Other Route:** An individual petition is a subsidiary legal recourse that is only permissible if there is no other route to filing a petition with the Constitutional Court regarding the claim. The Constitutional Court works on the assessment

that acceptability depends on the possibility of obtaining a building permit. If an extensive building permit procedure, which would be very time-consuming and expensive, must be conducted just for the purpose of contesting a planning determination issued by regulation, then this would be unacceptable and thus an individual petition would be permissible. However, if a simplified – and less expensive and time-consuming – building permit procedure exists (e.g. building site assessment), an individual petition is not permissible because the other route possible is acceptable. It would be feasible to obtain the relevant official notice and to petition the Land Administrative Court after going through all municipal legal instances. A complaint may be filed against such ruling with the Constitutional Court pursuant to Art. 144 Constitutional Act.

Petition by an interested party for judicial review (“review of legislation”)

Legal certainty for individuals in the review procedure before the Constitutional Court was enlarged by the amendment to the Constitutional Act Federal Law Gazette I 114/2013. Now the Constitutional Court may rule on the **unlawfulness of regulations** (zoning or development plans) upon request by an individual or by the parties to a procedure in the first instance before a regular court (district court, Land court), with the following additional **conditions** having to be met to file the complaint with the Constitutional Court:

- A decision by the court of first instance exists;
- Legal recourse has been taken against the decision of the regular court;
- The petitioner claims a violation of his or her legal rights by the decision of the court because of the use of an unlawful regulation.

As the **effects of a repeal of a zoning plan** by the Constitutional Court may be controversial as to whether the old zoning takes effect or not, several Länder have created special provisions for the repeal of zoning plans (and development plans). Thus, pursuant to Salzburg’s spatial planning laws (§ 22 (1) Slbg ROG) in the event of a repeal of a zoning plan or of a development plan by the Constitutional Court, a development moratorium applies as of the date of effect of the repeal until the new zoning plan or development plan takes effect.

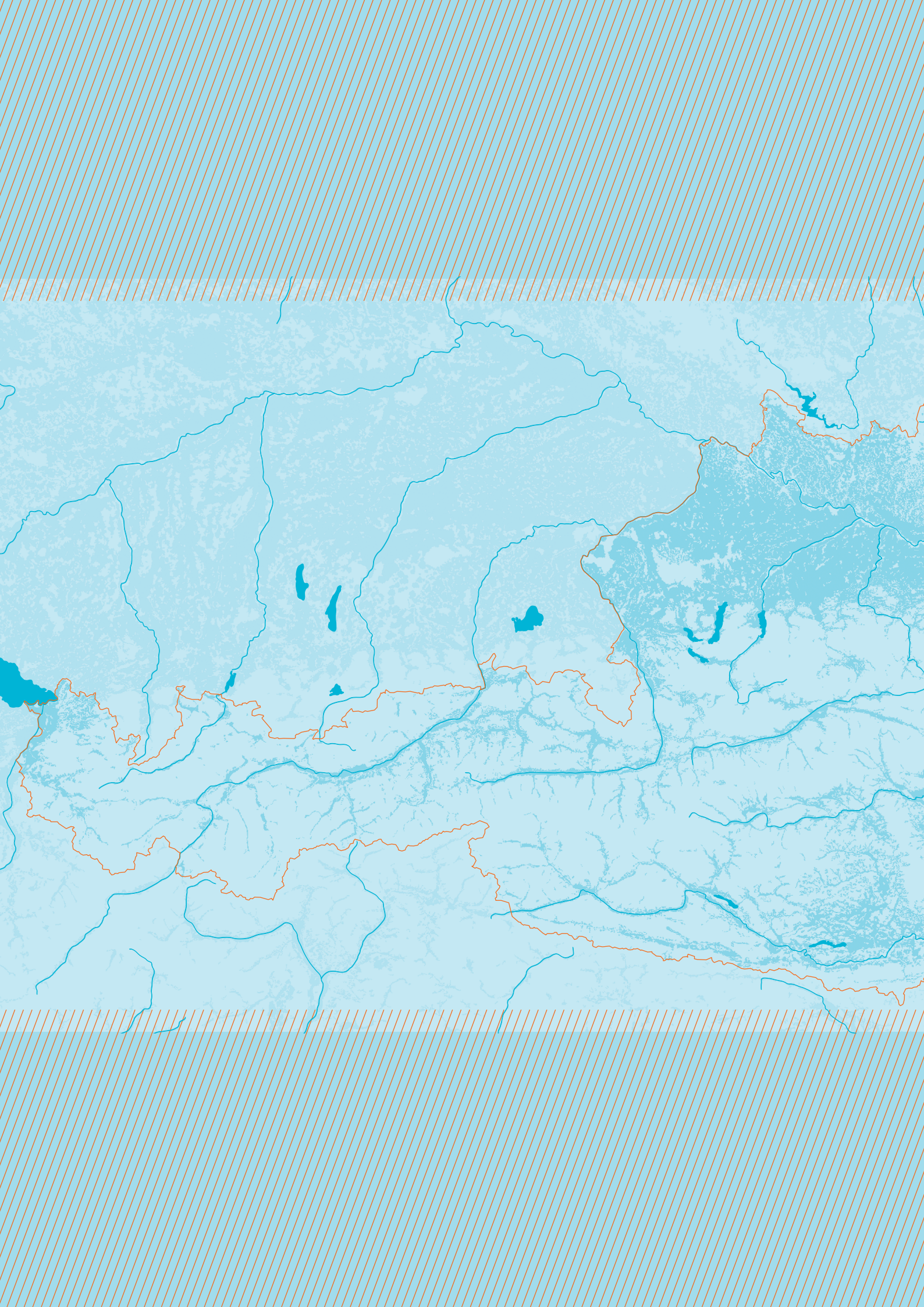
Ombudsman board (Volksanwaltschaft)

The Ombudsman Board has been established pursuant to Art. 148a Constitutional Act for the purpose

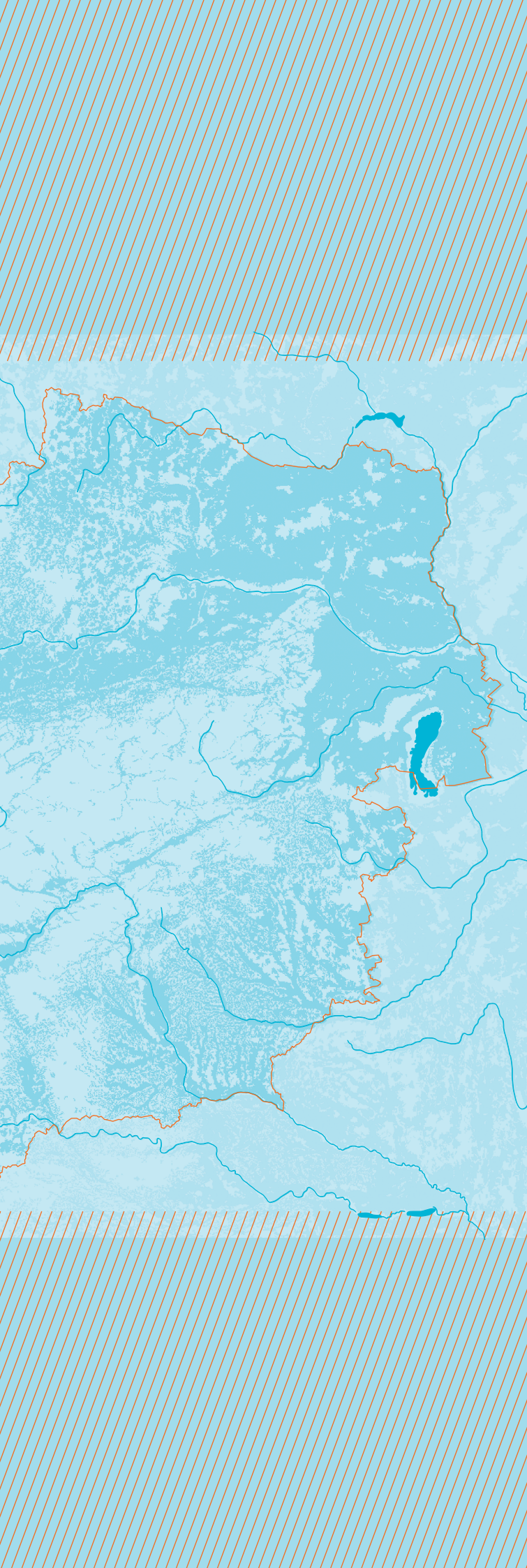
of **investigating maladministration** and is therefore also the control instance for spatial plans. It is available to all persons who have problems with public authorities, who feel unjustly treated by administrative bodies and have already exhausted all legal instances. The Ombudsman Board may review plan regulations as to their **lawfulness** and also address other **misbehaviour** such as the failure to send or the sending of deficient notifications to persons affected by planning. Even though property owners do not have a legal right to a certain zoning, in the past the Ombudsman Board has assessed the situation as maladministration when the municipal council failed to discuss the conditions for a zoning request and thus denied a petition for factually incorrect reasons.

When evaluating spatial plans as to their lawfulness, the Ombudsman Board takes guidance by the **rulings** of the **Constitutional Court**. As the Constitutional Court, based on the legality principle, derives an ob-

ligation on the part of the issuer to repeal unlawful spatial plans and to replace these by lawful spatial plans, the Ombudsman Board is able to recommend or propose a correction (Art. 148c Constitutional Act). If the municipality does not follow the recommendation or proposal, the Ombudsman Board has the option of requesting the Constitutional Court to repeal the valid planning regulations. If the public authority fails to act, the Ombudsman Board may recommend regulation that is lacking to be issued (e.g. development plan). The Ombudsman Board may also take action **ex officio**, i.e., without a concrete complaint (e.g. based on media reports) (Art. 148a (2) Constitutional Act) as was the case for the shopping centre in Seiersberg (Styria). As the Ombudsman Board may also review the non-sovereign administration by municipalities (Art. 116 (2) Constitutional Act), the mode of procedure within the scope of spatial planning contracts (contracts under private law) is also within its control remit.



Challenges for Spatial Planning in Austria



9 CHALLENGES FOR SPATIAL PLANNING IN AUSTRIA

■ ARTHUR KANONIER AND ARTHUR SCHINDELEGGER

The challenges facing spatial development in Austria may be described from very different perspectives. Thus, it is possible to look at the challenges in the context of the legal framework, how areas of competence are distributed or how institutional cooperation works. In the past years, ÖROK's work has concentrated on current challenges and this also provides the basis for the report.

The **Austrian Spatial Development Concept 2011** (ÖREK 2011), which was created as a strategic steering instrument for overall spatial planning, is a response to the **challenges of our times**: the internationalisation of the economy, the fierce locational competition, an aging population and immigration, climate change, the use of space and consumption of resources as well as the changed geopolitical positioning of Austria within a changing European Union.

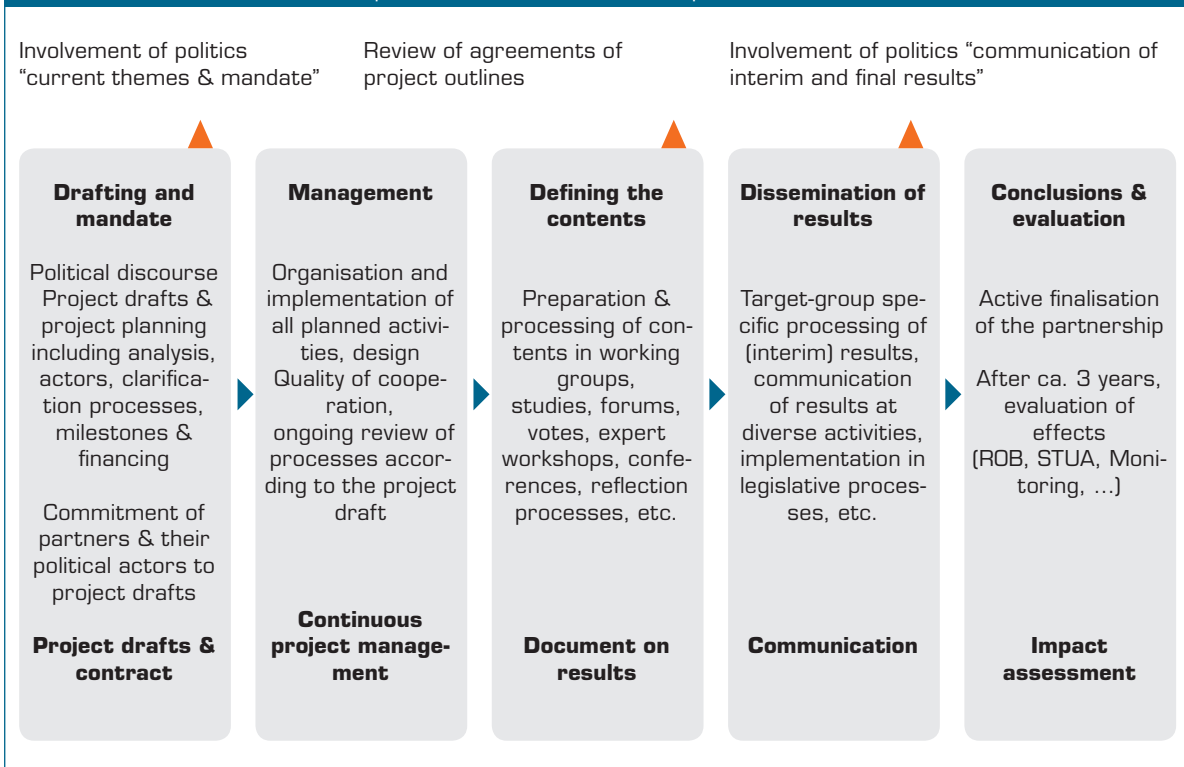
Based on an **ex-post analysis** of the factors of influence that change spatial structures as well as an **ex-ante outlook** on probable future developments, the ÖREK 2011 arrived at the following conclusions:

- The **accelerating integration of regions** in a setting of global competition with growing interdependence and greater locational competition is encouraging **functional specialisation and regional disparities**.
- The **growing population** in agglomerations and central areas as well as the increasing use of space for all functions of basic services for the population (housing, transport, utilities and waste disposal, recreation and leisure time) is leading to a **scarcity of available land and easily accessible areas**. An orderly settlement development is now more necessary than ever.
- **Demographic change** (ethnic diversity, aging society) is posing a great challenge to cities and rural areas with respect to the **supply of public and private goods and services** (public transport, retail, social infrastructure).
- The **increasing energy consumption** and the **rising volumes of traffic** as well as the unequal opportunities for the new forms of energy generation and use are **threatening the sustainability goals** and heightening dependence on imported energy;
- **Climate change** influences the long-term land use and the spatial development potentials in many different fields (e.g. water supply, natural hazards, energy demand, agricultural and forestry production, suitability for tourism).
- The **rising consumption of land for transport and settlement**, and the overuse of natural resources and land for cultivation driven by economic reasons is resulting in a loss of biodiversity and in a uniformity of the cultivated landscape in some regions.

ÖREK 2011 states **three fundamental positions** for mastering these challenges:

- **Competitiveness**: Strengthening competitiveness of Austrian regions in national and European comparison will be necessary in the future as well in order to keep the economy running smoothly.
- **Solidarity**: Austria is also a social welfare state. The quality of Austria as an attractive location for business is based in part on social peace, security and social cohesion. Access to institutions of education and advance learning, to healthcare and to care institutions, to cultural venues and also political participation are conditions for securing this high standard.
- **Sustainability**: ÖREK 2011 declares a commitment to the principle of sustainability and encourages measures for the development of settlements and land use that is sustainable and supportive of environmental stewardship. The aims are to minimize additional energy and resource consumption (including use of undeveloped space), on the one hand, and to minimize additional materials cycles, on the other. As many options for action as possible are to be kept open for future generations.

Abb. 35: Overview of the steps in an ÖREK Partnership



ÖROK, 2018

Starting out from the challenges and the fundamental positions, the ÖREK 2011 defines different **spatial objectives** (i.a. compact cities, high performance axes, diverse regions) and **eight principles for action** (i.a. sustainable spatial development, orientation on the common good, coherent planning, participative planning, cooperation at different levels) to achieve cooperative spatial development.

The main themes of the ÖREK 2011 have been (and are being) implemented within the framework of the **ÖREK Partnerships**. These partnerships consist of ÖROK members who are involved in the themes and of other institutions specialised in certain domains. The aim is to implement the ÖREK 2011 action programme through cooperation in those ÖREK Partnerships. The thematic areas of focus of the finalised ÖREK Partnerships – and also of ongoing Partnerships – in the past years clearly reveal the **main challenges** facing Austrian spatial planning.

Finalised ÖREK partnerships:

→ **Fundamental framework for securing space for line infrastructure projects** (2014): The objective defined by this ÖREK Partnership was to improve the process of securing land for line infrastructure projects (roads, railways, power grids) and to prepare the implementation. In basic research, the

regulatory planning framework (e.g. federal and Land law) was systematically presented and an overview prepared. A key focus was on the drafting of proposals for solutions based on the relevant laws and considering the spatial planning competencies, and also on improving cooperation among the actors.

→ **Create regional governance models** (2014): The ÖREK Partnership investigated the issue of how actors can network better at the regional level and how to best support their work, and also why this is a success factor for overcoming economic and social challenges. To this end, recommendations and options for action were prepared. Perspectives and measures were developed for strengthening the regional fields of action and identifying the necessary steps to establish “regional governance” in Austria as a form of cooperation and interaction.

→ **Diversity & integration in rRegions** (2014): Immigration has become a key factor of demographic change in Austria: diversity in society is growing. Thus, integration policy is becoming an important point of reference for economic, social and spatial strategies, also because of the fact that integration always has a spatial reference. The Partnership contributed to enlarging the knowledge base for successful integration processes;

it prepared the findings for the actors in spatial planning, regional and location policy with a view to practical and implementation-oriented solutions, and helped to improve the structural conditions for policy coordination between spatial and integration policies.

- **Affordable housing** (2014): Price and cost trends as well as population growth, especially in agglomerations, are making the issue of “**affordable housing**” very important themes. A large number of factors have an influence on developments in these areas (housing and rental law, building law and tax law, housing subsidies, etc.). The ÖREK-Partnership “Affordable Housing” investigated how the tools of spatial planning can support the objective of “affordable housing”, and focusing on the legal framework conditions for spatial planning contracts as an instrument.
- **Integrated spatial and energy planning** (2014): The objectives of this ÖREKPartnership were to prepare and disseminate know-how on how to include energy efficiency in spatial planning and to raise awareness with respect to the climate relevance of spatial planning measures and the factors influencing framework conditions. The ÖREK Partnership had the aim of revealing the possible fields of action of spatial planning for achieving long-term climate protection. Of key importance is to attain energy efficient spatial structures through spatial planning so as to reduce overall energy consumption, and consequently, also greenhouse emissions from residential settlements, industry and commerce. Spatial planning can contribute to securing regional resources for renewable energy and to the management of the use of space.
- **Risk management for gravitational natural hazards in spatial planning** (2015): The work of this ÖREK Partnership laid the foundation for risk management for gravitational natural hazards (land mass movements such as mudslides, falling rocks, rockslides, avalanches, etc.). Unlike the case of flooding, no integrated system for hazards and risk planning had been established for gravitational natural hazards. The goal was therefore to prepare a foundation and common guidelines for implementing an integrated risk management system for gravitational natural hazards (focus on spatial planning).
- **Land use management and active land policy** (2017): Based on extensive basic materials and with a reference to the action field in the ÖREK 2011, the members of this Partnership pursued the goal of establishing common principles for land use, for

space management and for an active land policy by drafting an ÖROK Recommendation; it also initiated a discussion among experts and published the key findings in document using plain language. The findings flowed into the ÖROK Recommendation no. 56: “Land Use Management and Active Land Policy”.

- **Cooperation platform for urban regions** (2017): The objective of the Partnership was to support the networking of the actors of Austria’s urban regions and to raise awareness for the specific challenges facing these regions. By organizing an annual “urban regions day” (Stadtregionstag) in 2013, a platform was created where all interested actors from Austria’s urban regions gathered to discuss and share views on the various questions and issues in a coordinated setting. This ÖREK Partnership resulted in ÖROK Recommendation no. 55 “Towards an urban regions policy in Austria” in 2016. A separate online knowledge platform was set up at www.stadtregionen.at.
- **Flood risk management** (2017): Motivated by the flooding disaster of August 2002, “ÖROK Recommendation no. 52 on the Prevention of Natural Hazards in Spatial Planning” with a focus on flood management was published. As a consequence of new planning materials, it became necessary to conduct a revision. The revised ÖROK Recommendation is dedicated to the priority theme “Giving water space” and addresses water law, spatial planning and building legislation as well as the provisions for hazard zone mapping. The main focus was on how to avoid or mitigate the negative consequences for human health, the environment, cultural heritage and economic activity as much as possible.

Ongoing ÖREK partnerships

- **Platform “spatial planning & transport”**: A current priority theme of this ÖREKPartnership is work on the new ÖROKaccessibility analysis 2018 (data 2016); it also updates the accessibility analysis of the year 2007. The ÖREKPartnership has been working on “accessibility to public transport and settlement development” in the past few years, with a special focus on the development of a system of quality classes for public transport and regions. The most recent findings include an implementation scheme for public transport quality classes.
- **Strategies for regions with a declining population**: The current forecasts for regions for the period 2014 to 2030 show that demographic change will become an critical theme in many Austrian muni-

cipalities and regions in the coming years. Before this backdrop, an ÖREKPartnership was created in 2017 to address the topics of demographic change, municipalities and regions with a declining population as well as the resultant challenges and options for action. The aim of this ÖREKPartnership is to discuss the different aspects of this topic, to break prevailing taboos on population trends, and to develop proposals for action with a focus on policy and practice in spatial development.

→ **Strengthening town and city centres:** The divergent spatial and structural developments outside of town and city centres (shopping centres, settlements, etc.) are causing these centres to lose their original purpose as central places and venues of social interaction. The objective of “integrated” spatial and urban development planning is therefore to promote an inwards development trend and also to consider the multi-functional uses of town and city centres. In this respect, the preservation of the function as a place of residence with a functioning economy (esp. local supply of basic services) and the conservation of historic building structures are essential aspects for quality of life for inhabitants. Within the scope of the ÖREKPartnership “Strengthening town and city centres”, concrete implementation measures are to be evaluated and developed by 2019 that can be used to improve the effectiveness of spatial planning and the relevant legal instruments for reviving town and city centres.

→ **Integrated spatial planning and energy planning 2:** The second partnership is based on the findings of the first partnership of the same name. Work on the content is already far advanced and well documented. Thus, the focus of the second phase is the communication. On the one hand, communication in the meaning of the partners sharing experiences on current trends in spatial planning with respect to energy, and on the other, the design of communication instruments for issues relating to energy spatial planning addressed to different target groups.

An **interim evaluation** of the ÖREK 2011 (ÖROK publication series no. 201), which was completed in 2018, recommends the **following priority themes for further work and/or a new spatial development concept**:

→ **Climate change** calls for coordination across all sectors regarding adaptation and mitigation strategies and also avoidance measures due to the diverse points of reference and interdependencies. The key topics are:

- Adjustment to the consequences of climate change: Tourism, farming, urban planning (hot spots, cooling, uses for undeveloped/farming land, ...);
- “Sustainable mobility” – climate-neutral mobility – the de-carbonization of mobility and energy production;
- The territorial impact of the energy system in de-carbonized energy production;
- Integrated view of settlement development and energy supply.

→ **Demographic change and supply of basic services in rural areas** pose an enormous challenge to infrastructure: Vacancy, the gradual decline of purchasing power and the under-use of infrastructure are problems that need to be resolved. Future themes for an ÖREK are:

- Strategies to combat out-migration (young women, active population) and for the immigration flows;
- Maintenance of a basic infrastructure;
- Spatial development strategies for “shrinking” regions;
- “Smart” development of rural regions;
- Consequential costs of the “withdrawal” of infrastructure, services, etc. in peripheral regions;
- Local basic services with mobility beyond fossil fuels – securing mobility in wider spaces.

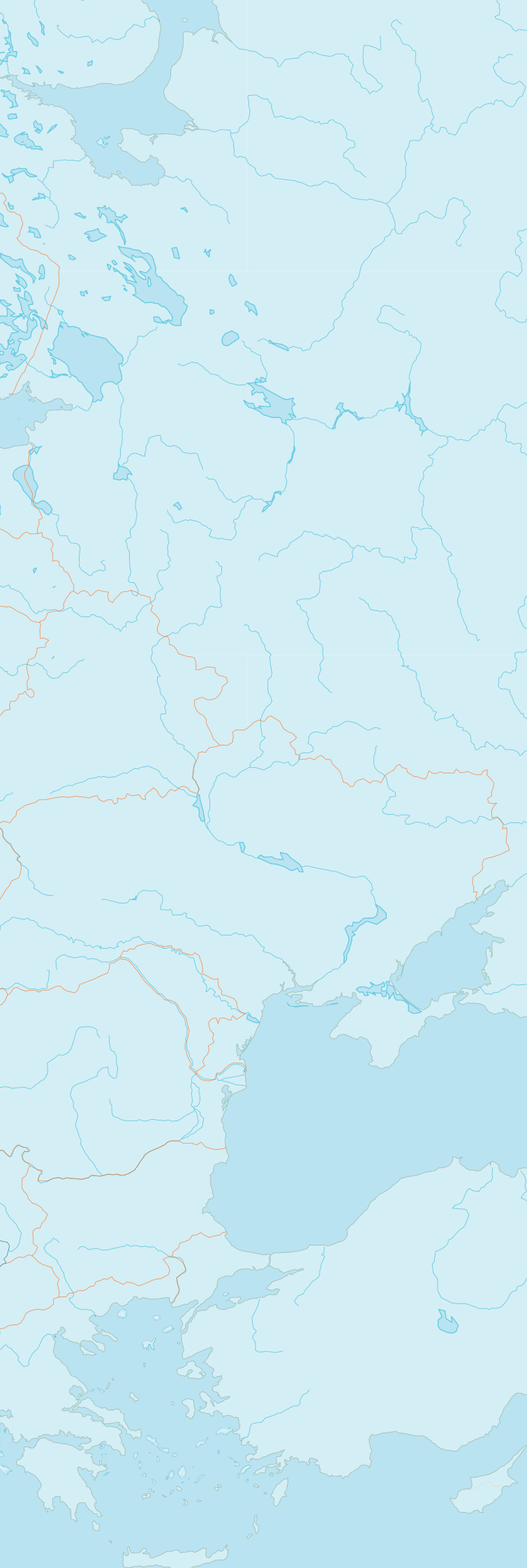
→ **Sustainable land use and settlement development** is still highly topical. This topic will continue to be important for spatial planning, in particular, in agglomerations where population growth must be managed.

Future topics are:

- Internal development, revival of town centres, re-use of settlement, commercial and trade areas no longer needed;
- Reduction of urban sprawl and large-scale commerce sites in peripheral areas;
- Truth in cost (infrastructure and mobility costs) and a higher awareness of the consequences of sprawling land development;
- Agreement on settlement development and transport (access to motorways, public transport access/public transport capacities);
- Access and/or efficient use of existing building land reserves;
- Settlement pressure in urban agglomerations: Demand for residential housing, mobility, migration/integration;
- Ensuring high-quality natural areas and open space (retaining accessibility and usability);
- and high-quality farmland;

- Coordination of spatial planning objectives and financial assistance (housing subsidies,...)
- The topic of **digitalisation** was identified as an important future theme at the policy level. As the change process of the digital transformation will create enormous challenges to rural areas, a deeper discussion of the opportunities and risks of digitalisation for spatial development should be initiated within the scope of a new ÖREK. Relevant questions in the ÖREK would be:
 - The spatial and regional challenges and the effects of digitalisation;
 - Opportunities for regions from the regionalisation of innovation policy – opportunities for regions through an innovation-oriented approach
 - Effects on commerce and town centres;

The challenges are therefore highly multi-faceted and it will only be possible to master them by taking a differentiated approach at the various levels of action.



10

Annex

I INSTITUTIONS AND ACTORS

The presentation of the relevant institutions and actors in spatial planning is only exemplary, as the involvement of the different actors depends on the planning procedures and processes. Therefore, no list of all possible institutions and actors is presented in the following sections, but rather an overview of the specific planning bodies and parties involved in the planning procedures.

Sectoral planning by the federal government and the **Länder** means that the competent **ministries** and **offices of the Land governments** carry out the planning tasks (grid development plans, securing routes, etc.) and also the sovereign tasks within the scope of approval and/or permit procedures. With respect to spatially-relevant sectoral planning, the description is limited to an excerpt of actors. At the level of the ministries, mainly the **Ministry for Sustainability and Tourism (BMNT)** as well as the **Ministry for Transport, Innovation and Technology (bmvit)** are of relevance. They are responsible for forestry and water law as well as laws relating to high priority (transport) infrastructure.

Within the scope of the indirect federal administration, administrative tasks are delegated to the **Länder** or outsourced to companies founded for this purpose. Former state-run enterprises were outsourced to the private sector, but are controlled by the state through supervisory boards, other controlling entities or through the share held by the state in such companies. While these companies are responsible for the planning, the erection and operation of infrastructure, the remaining sovereign administrative tasks remain the remit of the ministries, as the principle of legal certainty is mandatory for public administrative acts. Several important outsourced companies (most formerly state-owned) are relevant for spatial planning through their activities and may therefore also be involved in planning processes and procedures:

- **Road infrastructure:** Autobahnen- und Schnellstraßen-Finanzierungs-AG (ASFINAG AG)
- **Railway infrastructure:** Österreichische Bundesbahnen (ÖBB), Graz-Köflacher Bahn und Busbe-

triebe GmbH, Schienen-Control, Schieneninfrastruktur-Dienstleistungsgesellschaft mbH

→ **Waterways:** Via Donau – Österreichische Wasserstraßen-GmbH

→ **Forestry:** Österreichische Bundesforste AG (ÖBf)

In the area of legislation and execution by the **Länder**, there are different **sectoral laws** that may be of relevance for spatial planning or in connection with the various approval procedures. The **Länder** do not have ministries, but all **Länder** – except in Vienna (city administration of Vienna, Magistrat der Stadt Wien) – have an **office of the Land government** (Amt der Landesregierung) that is responsible for executing all administrative tasks. The Office of the Land Government is headed by the Land governor. The various competence areas in the administration of the **Länder** are headed by the Land councillors (Landesrat/Landesrätin) who are members of Land governments. The Office of the Land Government executes tasks required for Land administration and also tasks of indirect federal administration. To this end, it uses the services of the **district authorities** (Bezirkshauptmannschaften - BH) as the decentralized unit of the Land administration. Matters of planning relevance that are supported by the BH are, above all, water and transport law as well as forestry and hunting administration. If matters are referred to in the planning procedures – esp. when rezoning areas – that must be considered in basic research according to the law, a statement of opinion must be requested by the official expert from the Office of the Land Government (in Vienna from the city administration) or from the respective district authority.

The institutions at the regional level established on the basis of the respective spatial planning laws are the **regional associations** and these may be assigned different planning tasks. In some case, such associations also take over tasks relating to the management of subsidy schemes for regional development, but these are generally organised by **regional management organisations**.

The key actors in planning – mainly local spatial planning – are the **municipalities** as these are responsible for local spatial planning. Resolutions on planning acts must be passed by the **municipal council**, while the mayor is responsible for handling building regulation procedures (building authority of the first instance). In this case, the mayor – the same as the entire municipal council – is supported by the **municipality's own administration**.

The administration institutions mentioned and the political representatives that direct them are only part of the relevant planning actors. Thus, it is especially **bodies** with a **coordinating** or **advisory function** that are relevant for planning procedures and processes. A coordinating body with its main office in Vienna is the **Austrian Conference on Spatial Planning (Österreichische Raumordnungskonferenz, ÖROK)**. ÖROK does not have any formal competence for spatial planning, but prepares the Austrian Spatial Development Concept (Österreichisches Raumentwicklungskonzept, ÖREK) and maintains expert working groups and prepares recommendations. In this way, it has enabled and institutionalised the practice of broad discourse among planning bodies. In some cases, the spatial planning laws and spatial development laws of the Länder provide for **advisory boards** that advise the Land governments in matters relating to spatial development (Burgenland, Carinthia, Lower Austria, Styria, Tyrol, Vorarlberg). Vorarlberg is the only Land that has set up an **independent advisory board of experts** (Unabhängiger Sachverständigenrat, USR). Property owners may submit requests for changes to a zoning plan in writing concerning their own land. These requests must be discussed in a planning talk with the mayor – or with a staff member. If the request is denied, the property owner may hand the matter over to the USR to obtain an expert opinion.

Therefore, further actors in the planning process are the parties affected by planning. Property owners and neighbours have the right to become parties to building approval proceedings depending on the respective regulations of the Land. Nominal spatial planning law does not recognize such party status, as there is no planning approval via official notices.

Persons affected by planning acts – just like all other citizens – only have the right to make statements. The involvement of the interested public in informal planning processes is essential for the development of basic materials, analyses, visions etc. In the case of controversial topics, affected parties sometimes organise themselves in **citizens' initiatives**. These are associations of interested parties as self-help groups that aim to influence opinion; in some administrative procedures they are also granted party status (esp. regarding environmental impact assessments). Apart from such associations of interested citizens, there are also various established **associations** (e.g. Federation of Austrian Industries) and **representatives of professions** (e.g. Chamber of Commerce, Chamber of Agriculture) that can play an important role in political opinion-making for regional planning and general planning.

The planning work itself in the meaning of the preparation of maps, plans and expert opinions is carried out by the administrative bodies or by **consultants** with the relevant expertise in the area of spatial planning. In this context, there are commercial businesses for spatial planning and urban planning represented by the Chamber of Commerce, as well as civil engineers who are represented by the Chamber of Architects and Engineering Consultants.

Planning decisions reviewed by courts are sovereign planning acts of spatial planning that are part of the administrative jurisdiction. There are differences in the legal instances that may be called on with appeals especially with respect to the building codes of the Länder. It is not possible to lodge a regular appeal against a planning decision by a municipality or a Land government, and for this reason the control of the high courts, i.e., the **constitutional court** and **administrative court** are important in this context.

A point of contact for citizens who feel unjustly treated by arbitrary decisions by authorities is the **Ombudsman Board** (Volksanwaltschaft). Upon request and ex officio, the Ombudsman Board can review proceedings, decisions and regulations and make recommendations.

II THE LEGAL BASIS OF SPATIAL PLANNING IN AUSTRIA

The legal basis of spatial planning in Austria is quite differentiated. Apart from the spatial planning laws of the Länder and the regulations governing regional spatial planning, there are many further legal acts that are of relevance for spatial planning. The presentation that follows in the form of tables therefore concentrates on listing the principal laws of relevance at the federal level and the more extensive – but not complete list of current laws and regulations in nominal spatial planning legislation. The legal basis for sectoral planning by the Länder (nature conservation, transport infrastructure etc.) is not explicitly broken down in the presentation, but is also essential for planning and must be taken into account accordingly.

The legal texts and rulings of the high courts (Constitutional Court – VfGH, Administrative Court – VwGH, Supreme Court – OGH) are available on the online platform “Legal Information System of the Republic of Austria (RIS).”⁸ The numbering of the Federal Law Gazette with the respective year may be used in the search. In particular, decisions by the Constitutional Court (VfGH) are important in planning law, as they serve as a controlling instance of the instruments, procedures and planning mechanisms implemented with respect to compliance with the Con-

stitution. Provisions in spatial planning law or spatial development law are repealed as unconstitutional from time to time and also planning acts that do not conform to the principles of legality, proportionality and equality.

As set out in the assignment of areas of competence in the Constitutional Act, the federal government is responsible especially for the national infrastructure and key resources (water, forests, mineral extraction) with respect to legislation and execution. The table below shows the main federal acts governing “functional spatial planning”.

Tab. 07: Legislation of spatially-relevant sectoral planning by the federal government (excerpt)

Bundesstraßengesetz 1971	StF BGBl. 286/1971 idF 7/2017
Denkmalschutzgesetz 1923	StF BGBl. 533/1953 idF 92/2013
Eisenbahn-Enteignungsentschädigungsgesetz 1954	StF BGBl. 71/1954 idF 111/2010
Eisenbahngesetz 1957	StF BGBl. 60/1957 idF 137/2015
Forstgesetz 1975 StF BGBl. 440/1975 idF 56/2016	
Gaswirtschaftsgesetz 2011	StF BGBl. 107/2011 idF 108/2017
Hochleistungsstreckengesetz 1989	StF BGBl. 135/1989 idF 154/2004
Luftfahrtgesetz 1957	StF BGBl. 253/1957 idF 92/2017
Starkstromwegesgesetz 1968	StF BGBl. 70/1968 idF 112/2003
Umweltverträglichkeitsprüfungsgesetz 2000 (UVP-G)	StF BGBl. 697/1993 idF 111/2017
Wasserrechtsgesetz 1959	StF BGBl. 215/1959 idF 58/2017

⁸ Online: www.ris.bka.gv.at

Länder

ROG (spatial planning law) of the **Länder** were drafted and adopted for the first time in the 1960s and 1970s. As spatial planning is a dynamic field with respect to legislation in comparison, the laws have been amended frequently in the past and at present. Apart from formal amendments, it is especially the instruments that are constantly being changed and enlarged. Usually, the spatial planning laws of the Länder contain provisions governing regional and local spatial planning with objectives and instruments. Carin-

thia, for example, has divided the two aspects into two separate laws and Vienna has included planning matters in the Building Code and does not differentiate between local and regional planning. The scope and degree of detail of the respective laws vary widely due to the federal structure of the country. Nonetheless, building codes and construction law are closely tied to planning legislation and are usually amended in close cooperation.

Tab. 08: Current spatial planning laws of the Länder (May 2018)

Burgenländisches Raumplanungsgesetz 1969	StF LGBL. Nr. 18/1969 idF 44/2015
Kärntner Raumordnungsgesetz 1969	StF LGBL. Nr. 76/1969 idF 24/2016
Kärntner Gemeindeplanungsgesetz 1995	StF LGBL. Nr. 23/1995 idF 24/2016
Niederösterreichisches Raumordnungsgesetz 2014	StF LGBL. Nr. 3/2015 idF 65/2017
Oberösterreichisches Raumordnungsgesetz 1994	StF LGBL. Nr. 114/1993 idF 69/2015
Salzburger Raumordnungsgesetz 2009	StF LGBL. Nr. 30/2009 idF 96/2017
Steiermärkisches Raumordnungsgesetz 2010	StF LGBL. Nr. 49/2010 idF 117/2017
Tiroler Raumordnungsgesetz 2016	StF LGBL. Nr. 101/2016
Vorarlberger Raumplanungsgesetz 1996	StF LGBL. Nr. 39/1996 idF 78/2017
Wiener Stadtentwicklungs-, Stadtplanungs- und Baugesetzbuch (Bauordnung für Wien)	StF LGBL. Nr. 11/1930 idF 27/2016

Burgenland

Burgenland has relatively few laws and regulations that are directly relevant for spatial planning. Of key significance is the Land development programme

that defines very clearly the content and the framework for spatial planning in Burgenland.

Tab. 09: Burgenland – Legal basis for planning and regulations

LAWS	
Burgenländisches IPCC-Anlagen-, SEVESO III-Betriebe- und Umweltinformationsgesetz (Bgld ISUG)	StF LGBL. Nr. 8/2007 idF 25/2016
GENERAL REGULATIONS	
Planzeichenverordnung für digitale Flächenwidmungspläne	StF LGBL. Nr. 33/2009 idF 2/2016
Landesraumordnungsplan für Maßnahmen mit nachteiligen Auswirkungen auf die Umwelt	StF LGBL. Nr. 25/1992
Verordnung, mit der Einkaufsorte festgelegt werden	StF LGBL. Nr. 72/2003 idF 78/2017
DEVELOPMENT PROGRAMMES	
Landesentwicklungsprogramm (LEP 2011)	StF LGBL. Nr. 71/2011
Regionales Entwicklungsprogramm für das Untere Pinka- und Stremtal	StF LGBL. Nr. 22/1977 idF 51/2016

Carinthia

The Land Carinthia does not have a development programme for its entire territory, but in the 1970s it prepared development programmes for parts of the Land that are supplemented by several sectoral

programmes. Newer programmes were adopted especially for the regulation of photovoltaic plants and sites for wind farms.

Tab. 10: Carinthia – Legal basis for planning and regulations

LAWS

Kärntner Umweltplanungsgesetz	StF LGBL. Nr. 52/2004 idF 24/2016
Kärntner Regionalfondsgesetz	StF LGBL. Nr. 8/2005 idF 63/2016

GENERAL REGULATIONS

Planzeichenverordnung für Flächenwidmungspläne	StF LGBL. Nr. 62/1995 idF 30/1998
Planzeichenverordnung für Teilbebauungspläne	StF LGBL. Nr. 29/1998
Richtlinien für privatwirtschaftliche Maßnahmen im Bereich der örtlichen Raumplanung	StF LGBL. Nr. 105/1997
Geschäftsordnung des Raumordnungsbeirates	StF LGBL. Nr. 41/2002

DEVELOPMENT PROGRAMMES

Entwicklungsprogramm Kärntner Zentralraum	StF LGBL. Nr. 39/1977
Entwicklungsprogramm Raum Villach	StF LGBL. Nr. 40/1977
Entwicklungsprogramm Nockgebiet	StF LGBL. Nr. 41/1977 idF 119/1991
Entwicklungsprogramm Mirnock-Verditz	StF LGBL. Nr. 2/1978
Entwicklungsprogramm Raum Klagenfurt	StF LGBL. Nr. 19/1981 idF 76/2008
Entwicklungsprogramm politischer Bezirk St. Veit an der Glan	StF LGBL. Nr. 37/1983
Entwicklungsprogramm Raum Weißensee	StF LGBL. Nr. 59/1987
Entwicklungsprogramm Sportstättenplan	StF LGBL. Nr. 1/1978
Entwicklungsprogramm Versorgungsinfrastruktur	StF LGBL. Nr. 25/1993 idF 6/2004
Industriestandorträume-Verordnung	StF LGBL. Nr. 49/1996
Orts- und Stadtkern-Verordnung	StF LGBL. Nr. 49/1996
Sachgebietsprogramm Photovoltaikanlagen	StF LGBL. Nr. 44/2003
Sachgebietsprogramm für Standorträume von Windkraftanlagen (Windkraftstandorträume-Verordnung)	StF LGBL. Nr. 46/2016

Lower Austria

Lower Austria has relatively far-reaching spatial planning and a non-binding Land development scheme that serves as a general guidance. Apart from sectoral programmes – these include newer ones that refer

to the use of wind energy – there are regional spatial planning programmes (scope e.g. development of settlement structures, areas that should be kept free).

Tab. 11: Lower Austria – Legal basis for planning and regulations

GENERAL REGULATIONS

Verordnung über Planzeichen, Maßstäbe und Material des Flächenwidmungsplanes sowie der Plandarstellung der Ergebnisse der Grundlagenforschung	LGBL Nr. 8000/2-0 (2002)
Verordnung über die Ausführung des Bebauungsplanes	LGBL Nr. 8200/1-3 (1998)
Verordnung über die Geschäftsordnung des Raumordnungsbeirates	LGBL Nr. 8000/1-0 (1975)
NÖ Warengruppen-Verordnung 2009	LGBL Nr. 8000/95-0 (2009)
Verordnung über die Bestimmung des äquivalenten Dauerschallpegels bei Baulandwidmungen	LGBL Nr. 8000/4-0 (1998)
Verordnung über den Kostenersatz an Gemeinden bei Erstellung oder Änderung eines örtlichen Raumordnungsprogramms	LGBL Nr. 8000/5-0 (1978)

SECTORAL SPATIAL PROGRAMMES

Sektorales Raumordnungsprogramm über die Windkraftnutzung in NÖ	LGBL Nr. 8001/1-0 (49/2014)
Sektorales Raumordnungsprogramm über die Freihaltung der offenen Landschaft	LGBL Nr. 8000-23 (72/2007)
Schul-Raumordnungsprogramm	LGBL Nr. 8000/29-1 (1981)
Raumordnungsprogramm für die Gewinnung grundeigener mineralischer Rohstoffe	LGBL Nr. 8000/83-0 (1999)

REGIONAL SPATIAL PLANNING PROGRAMMES

Regionales Raumordnungsprogramm Wiener Neustadt-Neunkirchen	LGBL Nr. 8000/75-4 (2010)
Regionales Raumordnungsprogramm Untere Enns	LGBL Nr. 8000/35-1 (2010)
Regionales Raumordnungsprogramm NÖ Mitte	LGBL Nr. 8000/76-2 (2010)
Regionales Raumordnungsprogramm Wien Umland Nord	LGBL Nr. 64/2015
Regionales Raumordnungsprogramm Wien Umland Nordwest	LGBL Nr. 65/2015
Regionales Raumordnungsprogramm Wien Umland Nordost	LGBL Nr. 66/2015 idF 73/2015
Regionales Raumordnungsprogramm südliches Wiener Umland	LGBL Nr. 8000/85-0 idF. 67/2015

Upper Austria

At present, there are relatively few spatial planning programmes in **Upper Austria**, but with the current spatial planning programme of the Land (LAROP 2017) areas of action have been defined for which

regional plans will be adopted by issuing regulations in order to address the different specific features of functional areas.

Tab. 12: Upper Austria – Legal basis for planning and regulations

GENERAL REGULATIONS

Planzeichenverordnung für Flächenwidmungspläne 2016	LGBL. Nr. 26/2016
Planzeichenverordnung für Bebauungspläne	LGBL. Nr. 3/1996 idF 69/13
Verordnung über die Einordnung von Betrieben nach ihrer Betriebstype (Oö. Betriebsverordnung 2016)	LGBL. Nr. 27/2016
Verordnung, mit der Grenzwerte für Emissionen und Immissionen für die einzelnen Widmungskategorien festgelegt werden	LGBL. Nr. 22/1995 idF 93/1995
Umweltprüfungsverordnung für Flächenwidmungspläne	LGBL. Nr. 110/2006
Umweltprüfungsverordnung für Raumordnungsprogramme	LGBL. Nr. 111/2006

SPATIAL PLANNING PROGRAMMES

Landesraumordnungsprogramm 2017	LGBL. Nr. 21/2017
Regionales Raumordnungsprogramm für die Region Eferding	LGBL. Nr. 114/2007
Regionales Raumordnungsprogramm für die Region Linz-Umland 2	LGBL. Nr. 42/2012

Not included: Regulations on the use of land for commercial buildings to cover regional demand.

Salzburg

In **Salzburg**, there are many planning regulations. Apart from a Land development programme (2003), especially the regional and sectoral programmes are pointed out. The sectoral programmes tend to reference tourism aspects such as golf and skiing areas

and there are also sectoral programmes for housing and employment in Salzburg's core area. In the past 15 years, binding regional programmes have also been drafted and adopted

Tab. 13: Salzburg – Legal basis for planning and regulations

GENERAL REGULATIONS

Landes-Entwicklungsprogramm 2003	LGBL Nr. 94/2003
Darstellungsverordnung für Flächenwidmungspläne und Bebauungspläne	LGBL Nr. 10/2011 idF 30/16
Bebauungsplan-Kostenbeitragsverordnung	LGBL Nr. 84/2001
Gestaltungsbeiräte-Verordnung	LGBL Nr. 67/1993
Umweltprüfungsverordnung für Raumordnungspläne und -programme	LGBL Nr. 59/2007 idF 39/2010
Verordnung über die Unterlagen zur Feststellung von Handelsgroßbetrieben	LGBL Nr. 128/1993 idF 39/2010
Verordnung über die Unterlagen zur Feststellung von Beherbergungsgroßbetrieben	LGBL Nr. 129/1993 idF 151/1993
Verordnung über die Unterlagen zur Beurteilung von Vorhaben gemäß § 24 Abs. 3 ROG (Flächenwidmungsplanwidrige Vorhaben)	LGBL Nr. 130/1993 idF 39/2010
Verordnung über die Unterlagen zur Feststellung von Zweitwohnungsvorhaben	LGBL Nr. 16/1994 idF 39/2010
Verordnung betreffend die nach dem Raumordnungsgesetz 2009 verlangten Nutzungserklärungen (Formularverordnung für Nutzungserklärungen)	LGBL Nr. 3/2010
Verordnung über die Bildung von Regionalverbänden	LGBL Nr. 81/1994 idF 39/2010

REGIONAL AND SECTORAL PROGRAMMES

Sachprogramm für die Errichtung von Golfanlagen in Salzburg	LGBL Nr. 90/1998
Sachprogramm „Standortentwicklung für Wohnen und Arbeiten im Salzburger Zentralraum“	LGBL Nr. 13/2009
Verordnung mit der das Sachprogramm für die Errichtung oder Änderung von Schianlagen im Land Salzburg für verbindlich erklärt wird	LGBL Nr. 49/2008
Regionalprogramm Pinzgau	LGBL Nr. 18/2014
Regionalprogramm Oberpinzgau	LGBL Nr. 19/2014
Regionalprogramm Flachgau-Nord	LGBL Nr. 61/2009
Regionalprogramm Salzburg Stadt und Umgebungsgemeinden	LGBL Nr. 94/2013
Regionalprogramm Lungau	LGBL Nr. 84/2015
Regionalprogramm Tennengau	LGBL Nr. 60/2002
Regionalprogramm Salzburger Seengebiet	LGBL Nr. 76/2004

Not included: Location regulations for wholesale enterprises.

Styria

Styria - just like Salzburg – has a traditionally strong regional planning. Thus, all planning regions have their own regional development programmes. The entire territory of the Land is also covered by sectoral programmes, for example, for wind power, flood-proof development of settlement areas, shopping centres and clean air.

Tab. 14: Styria – Legal basis for planning and regulations

GENERAL REGULATIONS

Planzeichenverordnung 2016	LGBL Nr. 80/2016
Geschäftsordnung des Raumordnungsbeirates	LGBL Nr. 11/1975 idF 110/2012
Geschäftsordnung Regionalvorstand – GeORegVo	LGBL Nr. 49/2016
Geschäftsordnung Regionalversammlungen – GeORegVe	LGBL Nr. 48/2016
Bebauungsdichteverordnung 1993	LGBL Nr. 38/1993 idR58/11
Benachrichtigungsverordnung	LGBL Nr. 101/1989
Landesentwicklungsprogramm – LEP 2009	LGBL Nr. 75/2009 idF 37/2012

SECTORAL DEVELOPMENT PROGRAMMES

Entwicklungsprogramm für den Sachbereich Windenergie 2013	LGBL Nr. 72/2013 idF 106/2014
Entwicklungsprogramm zur hochwassersicheren Entwicklung der Siedlungsräume	LGBL Nr. 117/2005
Einkaufszentrenverordnung (Entwicklungsprogramm zur Versorgungsinfrastruktur)	LGBL Nr. 58/2011
Entwicklungsprogramm für die Reinhaltung der Luft	LGBL Nr. 58/1993 idF 53/2011

REGIONAL DEVELOPMENT PROGRAMMES

Regionales Entwicklungsprogramm für die Planungsregion Oststeiermark	LGBL Nr. 86/2016
Regionales Entwicklungsprogramm für die Planungsregion Steirischer Zentralraum	LGBL Nr. 87/2016
Regionales Entwicklungsprogramm für die Planungsregion Südweststeiermark	LGBL Nr. 88/2016
Regionales Entwicklungsprogramm für die Planungsregion Obersteiermark Ost	LGBL Nr. 89/2016
Regionales Entwicklungsprogramm für die Planungsregion Obersteiermark West	LGBL Nr. 90/2016
Regionales Entwicklungsprogramm für die Planungsregion Liezen	LGBL Nr. 91/2016
Regionales Entwicklungsprogramm für die Planungsregion Südoststeiermark	LGBL Nr. 92/2016

Not included: Site regulations regarding shopping centres.

Tyrol

The Land Tyrol also has many regulations on planning. Especially regarding tourism development, there are many sectoral programmes for developing cable cars and skiing areas, golf courses and for the

protection of glaciers. Of special relevance in regional programmes is the demarcation of regional areas, for example, areas that are to be kept free as well as of agricultural priority areas.

Tab. 15: Tyrol – Legal basis for planning and regulations

LAWS

Tiroler Umweltprüfungsgesetz –TUP	LGBL Nr. 34/2005 idF 130/2013
-----------------------------------	-------------------------------

GENERAL REGULATIONS

Planungsgrundlagen- und Planzeichenverordnung 2013	LGBL Nr. 74/2013, 112/2016
Verordnung über die Bildung von Planungsverbänden und deren Satzung	LGBL Nr. 87/2005 idF 102/2015
Geschäftsordnung des Raumordnungsbeirates und seiner Untergruppen	LGBL Nr. 51/2017
Raumordnungsprogramm für Einkaufszentren (EKZ – Raumordnungsprogramm 2005)	LGBL Nr. 119/0205 idF 6/2013
Tiroler Seilbahn- und Schigebietsprogramm 2005	LBGL Nr. 10/2005 idF 6/2015
Raumordnungsprogramm für Golfplätze	LGBL Nr. 1/2009 idF 46/2016
Raumordnungsprogramm über den Schutz der Gletscher	LGBL Nr. 43/2006

DEVELOPMENT, SPATIAL PLANNING AND REGIONAL PROGRAMMES

Raumordnungsprogramm betreffend landwirtschaftliche Vorrangflächen für die Kleinregion Oberes Lechtal	LGBL Nr. 40/1994 idF 115/2017
Raumordnungsprogramm betreffend überörtliche Grünzonen für die Kleinregion Südöstliches Mittelgebirge	LGBL Nr. 41/1994 idF 126/2015
Regionalprogramm betreffend landwirtschaftliche Vorsorgeflächen für den Planungsverband Hall und Umgebung	LGBL Nr. 45/16
Regionalprogramm betreffend überörtliche Grünzonen für den Planungsverband Wörgl und Umgebung	LGBL Nr. 93/2014 idF 120/2017
Regionalprogramm betreffend landwirtschaftliche Vorrangflächen für den Planungsverband Zillertal	LGBL Nr. 76/2013 idF 48/2017
Regionalprogramm betreffend überörtliche Grünzonen für die Marktgemeinde Völs und die Gemeinde Kematen in Tirol	LGBL Nr. 60/2013 idF 121/17
Regionalprogramm betreffend landwirtschaftliche Vorsorgeflächen für den Planungsverband Reutte und Umgebung	LGBL Nr. 69/2016
Regionalprogramm betreffend landwirtschaftliche Vorsorgeflächen für den Planungsverband Südöstliches Mittelgebirge und die Stadt Innsbruck erlassen wird	LGBL Nr. 13/2017
Regionalprogramm betreffend landwirtschaftlicher Vorsorgeflächen für den Planungsverband Lienz und Umgebung	LGBL Nr. 108/2017
Regionalprogramm betreffend landwirtschaftliche Vorsorgeflächen für die Gemeinden Mieming, Mötz, Silz, Stams und Wildermieming des Planungsverbandes Inntal – Mieminger Plateau	LGBL Nr. 67/2017
Regionalprogramm betreffend landwirtschaftliche Vorsorgeflächen für den Planungsverband Westliches Mittelgebirge	LGBL Nr. 92/2017

Not included: Determinations for core areas for shopping centres; determinations of a longer period for continuing local spatial planning schemes of municipalities: initial electronic promulgation of zoning plans of municipalities.

Vorarlberg

In **Vorarlberg**, spatial planning focuses on keeping spaces free from being built up. Thus, at the bottom of the Rhine Valley and Walgau spaces have been kept free of zoning as building land since the 1970s for agricultural and recreation uses, and are thus pro-

tected from construction development. Recently, regional undeveloped areas have been also designated for protection against flooding in the Rhine Valley through the issuance of a regulation.

Tab. 16: Vorarlberg – Legal basis for planning and regulations

LAWS

Zweitwohnsitzabgabegesetz	LGBL. Nr.87/1997 idF 80/2017
---------------------------	------------------------------

GENERAL REGULATIONS

Verordnung über die Form der Flächenwidmungs- und Bebauungspläne (Planzeichenverordnung)	LGBL. Nr. 50/1996 idF 57/2014
--	-------------------------------

Verordnung über die Geschäftsordnung des Raumplanungsbeirates	LGBL. Nr. 16/1974 idF 20/2017
---	-------------------------------

Baubemessungs-Verordnung	LGBL. Nr. 29/2010 idF 51/2016
--------------------------	-------------------------------

Verordnung über die Einschränkung des Geltungsbereiches der Bestimmungen über Ferienwohnungen	LGBL. Nr. 47/1993 idF 59/2002
---	-------------------------------

Pläne, die von der Umwelterheblichkeitsprüfung oder der Umweltverträglichkeitsprüfung ausgenommen sind	LGBL. Nr. 38/2005 idF 54/2009
--	-------------------------------

SPATIAL PLANS

Verordnung der Landesregierung über die Festlegung von überörtlichen Freiflächen zum Schutz vor Hochwasser im Rheintal	LGBL. Nr. 1/2014
--	------------------

Verordnung über Festlegung der überörtlichen Freiflächen in der Talsohle des Rheintales	LGBL. Nr. 8/1977 idF 46/2016
---	------------------------------

Verordnung über Festlegung der überörtlichen Freiflächen in der Talsohle des Walgaus	LGBL. Nr. 9/1977 idF 6/2017
--	-----------------------------

Not included: Regulations on the permissibility of zoning special areas for shopping centres.

Vienna

The City of **Vienna** bases its spatial planning mainly on the Vienna Building Code and on concepts (esp. STEP 2025), and therefore, it does not have a development programme imposed by a regulation – apart

from regulations under relevant laws (e.g. landscape conservation areas defined in the Vienna Nature Conservation Act).

Tab. 17: Vienna – Legal basis for planning and regulations

GENERAL REGULATIONS

Geschäftsordnung für den Fachbeirat für Stadtplanung	LGBL. Nr. 50/1996 idF 57/2014
--	-------------------------------

Verordnung über Erleichterungen für Kleinhäuser, Reihenhäuser und Sommerhäuser	LGBL. Nr. 20/1996
--	-------------------

The overview in Table 18 presents the different building land categories in the zoning plans of the Länder.

Tab. 18: Zoning categories for building land in the spatial planning laws of the Länder

LAND Legal Basis	Residenti- al areas	Core areas	Mixed areas	Com- mercial / industrial areas	Shopping centres / commer- cial areas	Village areas	Recreation and resort areas / second homes	Other
Bgld Bgld RplG 1969, LEP 2011	Wohnge- biete Baugebiete für för- derbaren Wohnbau		gemischte Baugebiete	Betriebsge- biete Industrie- gebiete	Geschäfts- gebiete	Dorfge- biete	Erho- lungs- oder Fremden- verkehrs- einrich- tungen	
Ktn Ktn GplG 1995	Wohnge- biete			Gewerbe- gebiete Industrie- gebiete	Geschäfts- gebiete	Dorfge- biete	Kurgebiete	
NÖ NÖ ROG 2014	Wohnge- biete	Kernge- biete		Betriebsge- biete Industrie- gebiete	Gebiete für Handels- einrich- tungen	Agrarge- biete		Gebiete für erhaltens- werte Orts- strukturen Hochhaus- zonen
Oö Oö ROG 1994	Wohnge- biete	Kernge- biete	gemischte Baugebiete	Betriebs- baugebiete Industrie- gebiete	Gebiete für Geschäfts- bauten	Dorfge- biete	Kurgebiete Zweitwoh- nungsge- biete	Landeflä- chen
Slbg Slbg ROG 2009	Reines Wohnge- biet Erweitertes Wohnge- biet Gebiete für den för- derbaren Wohnbau	Kerngebiet Ländliches Kerngebiet		Betriebsge- biet Gewerbe- gebiet Industrie- gebiet	Gebiet für Handels- großbe- triebe	Dorfge- biete	Zweitwoh- nungsge- biet Gebiet für Beherber- gungsgroß- betriebe	
Stmk Stmk ROG 2010	Reine Wohnge- biete Allgemeine Wohnge- biete	Kernge- biete	Mischge- biete	Gewerbe- gebiete Industrie- gebiete I und II	Einkaufs- zentren I und II	Dorfge- biete	Kurgebiete Erholungs- gebiete Ferien- wohn- gebiete	

Tirol TROG 2016	Wohnge- biet gemischtes Wohnge- biet	Kerngebiet	Allgemeine Mischge- biete	Gewerbe- und Indus- triegebiet	Sonderflä- chen für Handels- betriebe Sonderflä- chen für Einkaufs- zentren	Landwirt- schaft- liches Mischge- biet	Touris- musgebiet Sonderflä- chen für Beherber- gungsgroß- betriebe	
Vlbg Vlbg RPG 1996	Wohnge- biete	Kernge- biete	Mischge- biete	Betriebs- gebiete I und II	Flächen für Einkaufs- zentren Flächen für sonstige Handels- betriebe		Widmung für Feri- enwoh- nungen	Widmung für publikum- sintensive Veranstal- tungsstät- ten
Wien* WBO 1930	Wohnge- biete Gebiete für förder- baren Wohnbau		gemischte Baugebiete	Betriebs- baugebiete Industrie- gebiete	Geschäfts- viertel	Garten- siedlungs- gebiete		Gebiete für friedhofs- bezogene Nutzungen

* In Vienna, land use plans may contain further specific uses of land such as protective zones, residential zones as well as zones for major constructions; unbuilt areas for an urban planning priority; provisions on the permissibility of high-rise buildings, commercial streets and shopping centres.

REFERENCES

- AIGNER, M., ERLACHER, E., FORSTER, A., FRIEDRICH-KEIT-LEBMANN, J., FROMMELT, F., GUMPRECHT, J., ... REITHMAYER-EBNER, C. (2017): *Besonderes Verwaltungsrecht* (2. aktualisierte und erweiterte Auflage. ed.). Wien: Jan Sramek Verlag.
- AMT DER VLBG LANDESREGIERUNG (2017): *Wenig erschlossene Landschaftsräume Inventar Weißzone, Schriftenreihe der Abteilung Raumplanung und Baurecht*, 29b.
- AUER, M. (1998): *Die Änderung des Flächenwidmungsplans: Rückwidmung – Rechtsschutz – Entschädigung* (Springers rechtswissenschaftliche Dissertationen). Wien [u. a.]: Springer.
- AZIZI, J., SCHLARMANN, H. (1982): *Rechtsstaat und Planung*, Wien [u. a.]: Springer.
- BACHMANN, S., BAUMGARTNER, G., FEIK, R., FUCHS, C., GIESE, K., JAHNEL, D., LIENBACHER, G. (2016): *Besonderes Verwaltungsrecht: Lehrbuch* (11. Auflage. ed.). Wien: Verlag Österreich.
- BERKA, W. (1996): *Flächenwidmungspläne auf dem Prüfstand: Zur gerichtlichen Kontrolle von Plänen der örtlichen Raumordnung durch den VfGH. Baurechtliche Blätter*, 118: 69–136.
- BÖHME, K., DOUCET, P., KOMORNICKI, T., ZAUCHA, J., WITEK, D. 2011: *How to strenghten the territorial dimension of “Europe 2020” and the EU Cohesion Policy – Report based on the Territorial Agenda 2020*.
- BUNDESMINISTERIUM FÜR ARBEIT, SOZIALES UND KONSUMENTENSCHUTZ (Federal Ministry for Labour, Social Affairs and Consumer Protection) (2014): *Operational Programme Employment Austria 2014–2020*.
- BUNDESMINISTERIUM FÜR LAND- UND FORSTWIRTSCHAFT, UMWELT UND WASSERWIRTSCHAFT (Federal Ministry of Agriculture, Forestry, Environment and Water Management) (2014): *Programm zur Entwicklung des ländlichen Raums 2014–2020*.
- BUNDESMINISTERIUM FÜR LAND- UND FORSTWIRTSCHAFT, UMWELT UND WASSERWIRTSCHAFT (Federal Ministry of Agriculture, Forestry, Environment and Water Management) (2014): *Operationelles Programm Österreich – Europäischer Meeres und Fischereifonds 2014–2020*.
- BUNDESMINISTERIUM FÜR WISSENSCHAFT, FORSCHUNG UND WIRTSCHAFT (2015): *Der gesamtösterreichische Universitätsentwicklungsplan 2016–2021*.
- EK (2008): *Grünbuch zum territorialen Zusammenhalt. Territoriale Vielfalt als Stärke*.
- EK (2010): *EUROPA 2020. A strategy for smart, sustainable and inclusive growth*.
- EK (2014): *National/Regional Innovation Strategies for Smart Specialisation*.
- EK (2014a): *die Städtische Dimension der EU-Politikfelder – Kernpunkte einer EU-Städteagenda*.
- EK (2014b): *Zur Governance makroregionaler Strategien*.
- EK (2015): *Europäische Struktur- und Investitionsfonds 2014–2020, Offizielle Texte und Kommentare*.
- EK (2017): *Siebter Bericht über den wirtschaftlichen, sozialen und territorialen Zusammenhalt*.
- EUROPEAN UNION (2006): *Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on European Grouping of Territorial Cooperation (EGTC)*.
- EUROPEAN UNION (2011A): *Territorial Agenda of the European Union 2020. Towards an Inclusive, Smart and Sustainable Europe of Diverse Regions*.
- EUROPEAN UNION (2011B): *The Territorial State and Perspectives of the European Union. A Background Document for the Territorial Agenda of the European Union*.
- EUROPEAN UNION (2013): *Official Journal of the European Union. Regulation (EU) no 1303/2013 of the European Parliament and of the Council*.
- EUROPEAN UNION (2016): *Urban Agenda for the EU. Pact of Amsterdam*.

- FRÖHLER, L. UND OBERNDORFER, P. (1975): Österreichisches Raumordnungsrecht. Schriftenreihe des Institutes für Raumordnung und Umweltgestaltung, Band 1, Trauner Verlag Linz.
- FRÖHLER, L. UND OBERNDORFER, P. (1986): Österreichisches Raumordnungsrecht II, Trauner Verlag Linz.
- GRUBER, M. (2009): EU-Kohäsionspolitik in Österreich 1995–2007 – Eine Bilanz, Materialienband, in: Österreichischen Raumordnungskonferenz (Hg), ÖROK-Schriftenreihe Nr. 180.
- GRUBER, M. (2014): Territorialität in der EU-Kohäsionspolitik. Eine wechselhafte Geschichte: Von der Reform der 1980er-Jahre zur Post-Lissabon-Ära, in: Mitteilungen der Österreichischen Geographischen Gesellschaft, Band 156.
- GRUBER, M., POHN-WEIDINGER, S. (2015): Europäische Raumentwicklung und Impementierung der ESI-Fonds in Österreich, S. 70–100, in: Österreichischen Raumordnungskonferenz (Hg): 14. Raumordnungsbericht, ÖROK-Schriftenreihe Nr. 195
- GRUBER, M., HANDLER, R. (2016): „Politikrahmen zu Smart Specialisation in Österreich“ in: Österreichischen Raumordnungskonferenz (Hg), ÖROK-Schriftenreihe Nr. 199.
- GRUBER, M., HANDLER, R., POHN-WEIDINGER, S., SCHUH, B., TORDY, J., LECHNER, F., WILLSBERGER, B. (2017): Fortschrittsbericht 2017 Österreichs zur Umsetzung des STRAT.AT 2020, in: Österreichischen Raumordnungskonferenz (Hg), ÖROK-Schriftenreihe Nr. 200.
- HAUER, A. (2006): Planungsrechtliche Grundbegriffe und verfassungsrechtliche Vorgaben. In: Hauer A. und Nußbaumer M. (Hrsg): Österreichisches Raum- und Fachplanungsrecht, Pro Libris Verlag Linz 1–30.
- HEINTEL, M. (2005): Regionalmanagement in Österreich. Professionalisierung und Lernorientierung.
- HUBER, A. S. (2017): Raumordnungsrecht. In: Aigner M. et al. (Hrsg.): Besonderes Verwaltungsrecht, Jan Sramek Verlag, Wien, 477 ff.
- KANONIER, A. (2009): Anlass- und projektbezogene Festlegungen im österreichischen Flächenwidmungsplan. In Haslinger/Kanonier/Zehetner (Hrsg.): Ein Jurist im Spannungsfeld von Wirtschaft, Technik und Recht: Festschrift für Franz Zehetner zum 60. Geburtstag. Wien: Neuer Wissenschaftlicher Verlag.
- KANONIER, A. (1998): Änderungen von Flächenwidmungsplänen im österreichischen Raumordnungsrecht. Journal für Rechtspolitik, 6: 73–86.
- KLEEWEIN, W. (2014): Instrumente der Raumordnung – Überblick und Ausblick. Baurechtliche Blätter, 17 (3): 89–106. Verlag Österreich.
- KLEEWEIN, W. (2003): Vertragsraumordnung. Wien, Graz: Neuer Wissenschaftlicher Verlag.
- KORINEK, K. (1977): Verfassungsrechtlicher Eigentumsschutz und Raumplanung (Veröffentlichungen des Österreichischen Wirtschaftsinstituts für Strukturfor-schung und Strukturpolitik). Linz.
- KORINEK, K. (1975): Rechtliche Probleme der Anwendung von Raumordnungsgesetzen: Zur Interpretation des Oberösterreichischen Raumordnungsgesetzes; ein Rechtsgutachten (Veröffentlichungen des Österreichischen Wirtschaftsinstituts für Strukturfor-schung und Strukturpolitik). Linz.
- LEITL, B. (2006): Überörtliche und örtliche Raumplanung. Hauer/Nußbaumer (Hrsg.): Österreichisches Raum- und Fachplanungsrecht. Linz: ProLibris.
- LIENBACHER, G. (2016): Raumordnungsrecht, in: Bachmann, S., u. a. (Hrsg) Besonderes Verwaltungsrecht, Springer-Verlag, 11. Auflage Wien 483 ff.
- MAIER, G., TÖDTLING, F., TRIPPL, M. (2012): Regional- und Stadtökonomik 2: Regionalentwicklung und Regionalpolitik. S. 143.
- NORER R., HOLZER G. (2018): Bodenschutzrecht, Neuer Wissenschaftlicher Verlag.
- OBERLEITNER, F., BERGER, W. (2011): Kommentar zum Wasserrechtsgesetz 1959. 3. Auflage. Wien: Manz.
- ÖROK (2014): EFRE-Programm Investitionen in Wachstum und Beschäftigung Österreich 2014–2020 Operationelles Programm für den Einsatz der EFRE.
- ÖROK (2017): STRAT.AT 2020. Partnerschaftsvereinbarung Österreichs zur Umsetzung der Europäischen Struktur- und Investitionsfonds 2014–20, Version 3.
- ÖROK (2018): Zwischenevaluierung des Österreichischen Raumentwicklungskonzeptes 2011, Nr. 201. Wien: ÖROK.

- ÖROK (2015): 14. Raumordnungsbericht. Analysen und Berichte zur räumlichen Entwicklung Österreichs 2012–2014. Nr. 195. Wien: ÖROK.
- ÖROK (2014): Beiträge der Raumordnung zur Unterstützung „leistbaren Wohnens“. Nr. 191. Wien: ÖROK.
- ÖROK (2013): Flächenfreihaltung für linienhafte Infrastrukturvorhaben. Nr. 189. Wien: ÖROK.
- ÖROK (2011): Österreichisches Raumentwicklungskonzept: ÖREK 2011. Wien: ÖROK.
- ÖROK (1998): Raumordnung in Österreich. Nr. 137. Wien: ÖROK.
- ÖSTERREICHISCHE BUNDESREGIERUNG (2011): Strategie der Bundesregierung für Forschung, Technologie und Innovation.
- PERNTHALER, P. (1990): Raumordnung und Verfassung: 3. Neuere Entwicklungen/Peter Pernthaler (Schriftenreihe der Österreichischen Gesellschaft für Raumforschung und Raumplanung). Wien: Braumüller.
- PERNTHALER, P., FEND, R. (1989): Kommunales Raumordnungsrecht in Österreich (Schriftenreihe für Kommunalpolitik und Kommunalwissenschaft). Wien: Österr. Wirtschaftsverlag.
- PUCHER, J., TÖDTLING-SCHÖNHOFER, H., GRUBER, M., RESCH, A., WEISS, J. (METIS 2017): Grenzüberschreitende Kooperationen – Evaluierung und Perspektiven 2020+. ETZ in Österreich – Eine Bestandsaufnahme.
- RASCHAUER, B. (2008): Zum Verzicht auf Entschädigung wegen Rückwidmung. Baurechtliche Blätter. Vienna, Springer-Verlag, 11 (4): 135–140. Springer.
- SCHINDEGGER, F. (1999): Raum, Planung, Politik: Ein Handbuch zur Raumplanung in Österreich. Wien [u. a.]: Böhlau.
- SCHNEIDEWIND P. (2009): Die Ankunft der Räumlichkeit in der EU-Politik, in: Raum – Österreichische Zeitschrift für Raumplanung und Regionalpolitik, Nr. 76.
- STADT WIEN (2012): Praxishandbuch Partizipation, Werkstattberichte Nr. 127.
- STEGMAYER L. (2018): Raumordnung – Salzburgs neue Wege. Baurechtliche Blätter, 21 (2): 45–52. Verlag Österreich.

ABBREVIATIONS

AMS	Arbeitsmarktservices Österreich, AMS (Austrian Employment Services)
BMLFUW	Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft (Federal Ministry of Agriculture, Forestry, Environment and Water Management)
BMNT	Bundesministerium für Nachhaltigkeit und Tourismus (Federal Ministry for Sustainability and Tourism)
BMVIT	Bundesministerium für Verkehr, Innovation und Technologie (Federal Federal Ministry for Transport, Innovation and Technology)
BMWFW	Bundesministerium für Wissenschaft, Forschung und Wirtschaft (Federal Ministry of Science, Research and the Economy)
CLLD	Community-Led Local Development
ERDF	European Regional Development Fund
EC	European Commission
EAFRD	European Agricultural Fund for Rural Development
EMFF	European Maritime and Fisheries Fund
ESF	European Social Fund
ESI Funds	European Structural and Investment Funds
ETC	European Territorial Cooperation
EU	European Union
EUSALP	EU Strategy for the Alpine Region
EUSDR	EU Strategy for the Danube Region
EGTC	European Grouping of Territorial Cooperation
FFH	Habitats Directive
IGJ	Investment in Growth and Jobs
LEADER	Initiative of the European Community for the Development of Rural Areas
LLL	Life-long learning
MS	Member states
NUTS	Nomenclature des unités territoriales statistiques
ÖPUL	Österreichisches Programm für eine Umweltgerechte Landwirtschaft (Austrian Programme for En- vironmentally Compatible Agriculture)
ÖREK	Österreichisches Raumentwicklungskonzept (Austrian Spatial Development Concept)
ÖROK	Austrian Conference on Spatial Planning (Österreichische Raumordnungskonferenz)
PA	Partnership Agreement
STRAT.AT 2020	Partnership Agreement between Austria and the European Commission
TA 2020	Territorial Agenda of the European Union 2020.
TEN	Trans-European Networks
TO	Thematic Objective
RE	Regulation

FIGURES

Fig. 01:	Topographic map of Austria	20
Fig. 02:	ÖROK population forecast: Population trends 2014 to 2030 in %	21
Fig. 03:	Share of sealed surfaces 2012, 1 km grid (pursuant to the Copernicus Programme)	22
Fig. 04:	Settlement development in the region of Lauterach (Vorarlberg), 1950s and 2015.....	24
Fig. 05:	Protected areas 2014 (national parks, Natura 2000 regions, nature conservation areas, ...)	26
Fig. 06:	Structure of the ESI Funds in Austria	34
Fig. 07:	Europe 2020, Thematic Objectives and ESI Funds in Austria	35
Fig. 08:	Bilateral ETC Programmes with Austria's participation 2014-2020	36
Fig. 09:	Transnational cooperation areas with the participation of Austria in the programming period 2014-2020.....	37
Fig. 10:	Regional assisted areas in Austria 2014-2020 pursuant to EU State Aid Law	38
Fig. 11:	Multi-Level Governance in Regional Policy in Austria	52
Fig. 12:	Consideration of objectives and principles in spatial planning	57
Fig. 13:	Administrative breakdown of Austria 2018.....	63
Fig. 14:	Legislative planning levels of functional spatial planning	64
Fig. 15:	Relationship of planning instruments at the various planning levels	77
Fig. 16:	Section of the natural hazard map Alterbach, BWV Salzburg.....	80
Fig. 17:	Infrastructure Projects of BMVIT 2013	81
Fig. 18:	APG Master Plan Projects 2012-2030	84
Fig. 19:	Protected Areas in Tyrol	87
Fig. 20:	Thematic areas of tirisMobile	89
Fig. 21:	White Zone Inventory, No. 37 Hinteres Silbertal (Vorarlberg)	91
Fig. 22:	Areas of action in Upper Austrian Spatial Planning Programme "LAROP 2017"	94
Fig. 23:	Concept Green and Open Spaces – STEP 2025 City of Vienna.....	95
Fig. 24:	Excerpt from the regional spatial planning programme southern catchment area of Vienna, Sheet 76 Wr. Neustadt North (Lower Austria)	96
Fig. 25:	Section of the programme map of the Regional Programme for Pinzgau, Zentralraum/Unterpinzgau (Salzburg).....	97
Fig. 26:	Excerpt from the priority zones map of the Regional Development Programme Obersteiermark West (Styria) with legend	98
Fig. 27:	Overview of agricultural reserve areas for the planning association "Wattens and Surroundings" (Tyrol)	99
Fig. 28:	Excerpt from the regulation issued by the Land government of Vorarlberg defining regional open spaces as protection against flooding in the Rhine Valley area 'Dornbirn-Lustenau' ("Blauzone Rheintal")	101
Fig. 29:	Regional development concept, Municipality of Leobendorf (Lower Austria)	103
Fig. 30:	Excerpt of the Zoning Plan in the area of the Municipalities of Nüziders and Bludenz (Vorarlberg) with respective zonings	108
Fig. 31:	Example of a development plan – City of Graz	113
Fig. 32:	Land zoned for building but not yet developed, Draßmarkt Bgld (red: developed building land, green: undeveloped building land)	115
Fig. 33:	Building land consolidation – Example for the improvement of the shapes of plots of land	118
Fig. 34:	Zoning plan – planning stages.....	124
Fig. 35:	Overview of ÖREK Partnership steps	137

TABLES

Tab. 01:	Thematic objectives (TO) of the ESI Funds 2014-2020.....	34
Tab. 02:	Strategy concepts of the Länder	46
Tab. 03:	Regional Development Agencies of the Länder (Selection)	47
Tab. 04:	Instruments of Regional Spatial Planning in spatial planning laws	90
Tab. 05:	Instruments of Regional Spatial Planning	102
Tab. 06:	Overview – building land mobilisation measures in the spatial planning laws of the Länder	114
Tab. 07:	Legislation of spatially-relevant sectoral planning by the federal government (excerpt)	146
Tab. 08:	Current spatial planning laws of the Länder (May 2018)	147
Tab. 09:	Burgenland – Legal basis for planning and regulations	147
Tab. 10:	Carinthia – Legal basis for planning and regulations	148
Tab. 11:	Lower Austria – Legal basis for planning and regulations	149
Tab. 12:	Upper Austria – Legal basis for planning and regulations	150
Tab. 13:	Salzburg – Legal basis for planning and regulations	151
Tab. 14:	Styria – Legal basis for planning and regulations	152
Tab. 15:	Tyrol – Legal basis for planning and regulations.....	153
Tab. 16:	Vorarlberg – Legal basis for planning and regulations	154
Tab. 17:	Vienna – Legal basis for planning and regulations	154
Tab. 18:	Zoning categories for building land in the spatial planning laws of the Länder.....	155

CREDIT FOR DOUBLE-PAGE SPREADS AT THE BEGINNING OF EACH CHAPTER

Note: The double-page spreads at the beginning of each chapter are illustrations and do not contain any planning data.
Graphic Design: Katrin Pfleger, www.pflegergrafik.at

Chap. 1: Design by Katrin Pfleger, basis: ÖROK-Atlas (topography, CORINE Land Cover, SRTM)	18
Chap. 2: Design by Katrin Pfleger, basis: www.pixabay.com/FotoshopTofs	28
Chap. 3: Design by Katrin Pfleger	40
Chap. 4: Design by Katrin Pfleger, basis: „Blauzone Rheintal“ (Land Vorarlberg)	54
Chap. 5: Design by Katrin Pfleger, basis: ÖROK-Atlas (administrative breakdown)	60
Chap. 6: Design by Katrin Pfleger, basis: ÖEK Marktgemeinde Leobendorf, Büro Dr. Paula	68
Chap. 7: Design by Katrin Pfleger, basis: building plan Stadt Graz	74
Chap. 8: Design by Katrin Pfleger, basis: „Landwirtschaftliche Vorsorgeflächen“, tiris, Land Tirol.....	120
Chap. 9: Design by Katrin Pfleger, basis: ÖROK-Atlas (administrative breakdown)	134
Annex: Design by Katrin Pfleger, basis: ÖROK-Atlas	142

ÖROK SERIES INDEX

- 201 Zwischenevaluierung des Österreichischen Raumentwicklungskonzepts 2011(ÖREK 2011), Reflexion zu Inhalten, Umsetzung, Ausblick, Endbericht, Wien 2018
- 200 Fortschrittsbericht 2017 Österreichs zur Umsetzung des STRAT.AT 2020/Progress Report 2017 Austria on the implementation of STRAT.AT 2020, Wien 2017
- 199 Politikrahmen zu Smart Specialisation in Österreich/Policy framework for smart specialisation in Austria, Wien 2016
- 198 Agenda Stadtregionen in Österreich. Empfehlungen der ÖREK-Partnerschaft „Kooperationsplattform Stadtregion“ und Materialienband, Wien 2016
- 197 EFRE-Programm Investitionen in Wachstum und Beschäftigung Österreich 2014–2020, Wien 2015
- 196/III ÖROK-Regionalprognosen 2014–2030, Teil 3: Haushalte, Wien 2017
- 196/II ÖROK-Regionalprognosen 2014–2030, Teil 2: Erwerbsprognosen, Wien 2015
- 196/I ÖROK-Regionalprognosen 2014–2030, Teil 1: Bevölkerung , Wien 2015
- 195 14. Raumordnungsbericht, Analysen und Berichte zur räumlichen Entwicklung Österreichs 2012–2014, Wien 2015
- 194 Die regionale Handlungsebene stärken, Fachliche Empfehlungen und Materialienband, Wien 2015
- 193 Risikomanagement für gravitative Naturgefahren in der Raumplanung, Ergebnisse der ÖREK-Partnerschaft. Fachliche Empfehlungen und Materialienband, Wien 2015
- 192 Energieraumplanung, Ergebnisse der ÖREK-Partnerschaft, Materialienband, Wien 2014
- 191 Beiträge der Raumordnung zur Unterstützung „leistbaren Wohnens“, Ergebnisse der ÖREK-Partnerschaft, Wien 2014
- 190 Vielfalt und Integration im Raum, Ergebnisse der ÖREK-Partnerschaft, Wien 2014
- 189 Flächenfreihaltung für linienhafte Infrastrukturvorhaben: Grundlagen, Handlungsbedarf & Lösungsvorschläge, Wien 2013
- 188 STRAT.AT Bericht 2012/STRAT.AT Report 2012, Wien 2013
- 187 13. Raumordnungsbericht, Analysen und Berichte zur räumlichen Entwicklung Österreichs 2008–2011, Wien 2012
- 186 Wirkungsevaluierung – ein Praxistest am Beispiel der EFRE-geförderten Umweltmaßnahmen des Bundes 2007–2013, Wien 2011
- 185 Österreichisches Raumentwicklungskonzept (ÖREK) 2011, Wien 2011 samt Ergänzungsdokumenten
- 185en Austrian Spatial Development Concept (ÖREK) 2011, Wien 2011
- 184 ÖROK-Regionalprognosen 2010–2030: Bevölkerung, Erwerbspersonen und Haushalte, Wien 2011
- 183 15 Jahre INTERREG/ETZ in Österreich: Rückschau und Ausblick, Wien 2011
- 182 STRAT.AT Bericht 2009, Wien 2010
- 181 Neue Handlungsmöglichkeiten für periphere ländliche Räume, Wien 2009
- 180 EU-Kohäsionspolitik in Österreich 1995–2007 – Eine Bilanz, Materialienband, Wien 2009
- 179 Räumliche Entwicklungen in österreichischen Stadtregionen, Handlungsbedarf und Steuerungsmöglichkeiten, Wien 2009
- 178 Energie und Raumentwicklung, Räumliche Potenziale erneuerbarer Energieträger, Wien 2009
- 177 Zwölfter Raumordnungsbericht, Wien 2008
- 176/II Szenarien der Raumentwicklung Österreichs 2030, Regionale Herausforderungen und Handlungsstrategien, Wien 2009
- 176/I Szenarien der Raumentwicklung Österreichs 2030, Materialienband, Wien 2008
- 175 strat.at 2007–2013, Nationaler strategischer Rahmenplan Österreich, Wien 2007
- 174 Erreichbarkeitsverhältnisse in Österreich 2005, Modellrechnungen für den ÖPNRV und den MIV (bearbeitet von IPE GmbH.), Wien 2007
- 173 Freiraum & Kulturlandschaft – Gedankenräume – Planungsräume, Materialienband, Wien 2006
- 172 Zentralität und Standortplanung der öffentlichen Hand (bearbeitet von Regional Consulting ZT GmbH), Wien 2006

- 171 Aufrechterhaltung der Funktionsfähigkeit ländlicher Räume (bearbeitet von Rosinak & Partner), Wien 2006
- 170 Elfter Raumordnungsbericht, Wien 2005
- 169 Europaregionen – Herausforderungen Ziele, Kooperationsformen (bearbeitet von ÖAR), Wien 2005
- 168 Präventiver Umgang mit Naturgefahren in der Raumordnung, Materialienband, Wien 2005
- 167 Zentralität und Raumentwicklung (bearbeitet von H. Fassmann, W. Hesina, P. Weichhart), Wien 2005
- 166/II ÖROK-Prognosen 2001–2031
Teil 2: Haushalte und Wohnungsbedarf nach Regionen und Bezirken Österreichs (bearbeitet von STATISTIK AUSTRIA), Wien 2005
- 166/I ÖROK-Prognosen 2001–2031
Teil 1: Bevölkerung und Erwerbstätige nach Regionen und Bezirken Österreichs (bearbeitet von STATISTIK AUSTRIA), Wien 2004
- 165 EU-Regionalpolitik und Gender Mainstreaming in Österreich (BAB GmbH & ÖAR GmbH), Wien 2004
- 164 Methode zur Evaluierung von Umweltwirkungen der Strukturfondsprogramme (bearbeitet vom ÖIR), Wien 2003
- 163 Österreichisches Raumentwicklungskonzept 2001, Wien 2002
- 163a Österreichisches Raumentwicklungskonzept 2001 – Kurzfassung, Wien 2002
- 163b The Austrian Spatial Development Concept 2001 – Abbreviated version, Vienna 2002
- 163c Le Schéma autrichien de développement du territoire 2001 – Résumé, Vienne 2002
- 162 Räumliche Disparitäten im österreichischen Schulsystem – Strukturen, Trends und politische Implikationen (bearbeitet von Heinz Faßmann), Wien 2002
- 161 Ex-post-Evaluierung Ziel-5b- und LEADER II-Programme 1995–1999 in Österreich, (Bearbeitung: Forschungszentrum Seibersdorf Ges.m.b.H), Wien 2002
- 160 Zehnter Raumordnungsbericht, Wien 2002
- 159 Freiflächenschutz in Stadtregionen (Teil I bearbeitet von stadtländ, Teil II bearbeitet vom ÖIR), Wien 2001
- 158 Soziale Infrastruktur, Aufgabenfeld der Gemeinden; Expertengutachten des ÖIR (bearbeitet von Claudia Doubek und Ulrike Hiebl), Wien 2001
- 157 Aktionsprogramme der Europäischen Union – Die Beteiligung Österreichs 1999/2000 (bearbeitet von ÖSB-Unternehmensberatung GesmbH. und ÖAR-Regionalberatung GesmbH.), Wien 2001
- 156 Literatur zur Raumforschung und Raumplanung in Österreich, ÖROK-Dokumentation 1999/2 (Bearbeitung ÖIR, KDZ), Wien 2000
- 155 Erreichbarkeitsverhältnisse im öffentlichen Verkehr und im Individualverkehr 1997/98, Gutachten der Firma IPE (Integrierte Planung und Entwicklung regionaler Transport- und Versorgungssysteme), Wien 2000
- 154 Transeuropäische Netze und regionale Auswirkungen auf Österreich – Ergänzungsstudie, Gutachten des ÖIR (bearbeitet von Reinhold Deußner unter Mitarbeit von Eckhard Lichtenberger, Ursula Mollay, Wolfgang Neugebauer und Herbert Seelmann), Wien 2000
- 153 Literatur zur Raumforschung und Raumplanung in Österreich, ÖROK-Dokumentation 1999/1 (Bearbeitung ÖIR, KDZ), Wien 2000
- 152 Aktionsprogramme und transnationale Netzwerke der EU – überarbeitete und erweiterte Fassung Handbuch der ÖSB-Unternehmensberatung GesmbH/ÖAR-Regionalberatung GesmbH/invent – Institut für regionale Innovationen (bearbeitet von T. Brandl, L. Fidschuster, I. Gugerbauer, I. Naylor, F. Weber), Wien 2000
- 151 10. ÖROK-Enquete am 20. Mai 1999 in Wien: Das Österreichische Raumordnungskonzept 2001 – Zwischen Europa und Gemeinde, Wien 1999
- 150 Neunter Raumordnungsbericht, Wien 1999
- 149 Zwischenevaluierung der INTERREG II-A Außengrenzprogramme (bearbeitet von der Trigon – Entwicklungs- und Unternehmensberatung GmbH), Wien 1999

Sonderserie Raum & Region, Heft 3, Politik und Raum in Theorie und Praxis – Texte von Wolf Huber kommentiert durch Zeit-, Raum- und WeggefährtenInnen, Wien 2011

Sonderserie Raum & Region, Heft 2, Raumordnung im 21. Jahrhundert – zwischen Kontinuität und Neuorientierung, 12. Örok-Enquete zu 50 Jahre Raumordnung in Österreich, Wien 2005

Sonderserie Raum & Region, Heft 1, Raumordnung im Umbruch – Herausforderungen, Konflikte, Veränderungen, Festschrift für Eduard Kunze, Wien 2003