TO THE ATTENTION OF:
Ref. No.: 027 /08 June 2026

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Minister of Environment and Water

Copy to:

Ms Iva Petrova
Minister of Energy of the Republic of Bulgaria

Mr Ivan Shishkov
Minister of Regional Development and Public Works of the Republic of Bulgaria

Mr Plamen Abrovski
Minister of Agriculture and Food of the Republic of Bulgaria

Mr Georgi Peev
Minister of Transport and Communications

Subject: Position statement of the Bulgarian Wind Energy Association concerning the Appropriate Assessment Report for the draft Integrated National Energy and Climate Plan of the Republic of Bulgaria – 2024 Update

Dear Madam/ Dear Sir,

By means of this Opinion, we present the collective position of the members of the Bulgarian Wind Energy Association (BGWEA) regarding the published Appropriate Assessment Report for the draft Integrated National Energy and Climate Plan of the Republic of Bulgaria – 2024 Update (hereinafter referred to as the "Appropriate Assessment Report for the NECP" or the "Report").

We recognise the importance of the Integrated National Energy and Climate Plan (NECP) as a key strategic instrument for fulfilling the commitments of the Republic of Bulgaria under the Paris Agreement, the European Green Deal, the Fit for 55 Package, the REPowerEU Plan, and Directive (EU) 2023/2413, as well as for achieving decarbonisation and climate neutrality. We likewise acknowledge the necessity of protecting the Natura 2000 network, natural habitats, and the species for whose conservation those sites have been designated.

Accordingly, the Appropriate Assessment Report is an important document which should not merely fulfil the formal requirements of Article 31 of the Biological Diversity Act, but should constitute a scientifically substantiated, legally robust and proportionate instrument for assessing impacts, based on an individualised analysis, up-to-date data, and the application of contemporary mitigation technologies.

In its current form, however, the Report fails to satisfy these requirements and contains numerous material legal deficiencies, methodological shortcomings and scientific inconsistencies that call into question its applicability, soundness and compliance with the principles of European environmental and energy law. Particularly troubling and unacceptable are the measures proposed

in Section 6.2, which introduce extremely restrictive limitations and prohibitions without legal basis or scientific justification.

Accordingly, we hereby submit the following reasoned opinion.

1. The Appropriate Assessment Report for the NECP – 2024 Update should not be approved in its current form due to material legal deficiencies and methodological inconsistencies.

The preparation of a strategic document of such importance for the implementation of the country's climate and energy commitments requires the highest standards of legal and scientific substantiation. The Appropriate Assessment Report, in its current form, fails to meet those standards. Its conclusions are based on outdated information, selective citation of sources, and a methodologically flawed cumulative assessment.

Its approval in its present form would create a risk of preventing the development of a substantial part of Bulgaria's renewable energy potential, would conflict with European Union law, and would inevitably give rise to subsequent administrative and judicial disputes.

The specific grounds supporting the foregoing conclusions are set out below.

The assessment contained in the Appropriate Assessment Report concerning the effects of implementing the draft Integrated National Energy and Climate Plan on the protected sites of the national Natura 2000 ecological network does not comply, either in scope or content, with Article 23(2)(5) of the Ordinance on Appropriate Assessment, and therefore cannot serve as an objective basis for the planning of the mitigation measures presented in Section 6.2.

In practice, the information presented does not provide the analytical basis necessary for assessing the significance of the potential effects on the protected sites, nor does it demonstrate, by means of a scientifically substantiated approach, the conclusions reached.

On the contrary, the conclusions presented in the Appropriate Assessment Report are based on hypothetical assumptions and generalised interpretations concerning the occurrence of harmful effects, which have subsequently been used as the foundation for the development of extremely restrictive measures intended to reduce or eliminate the adverse effects of the Plan (NECP) on Natura 2000 protected sites.

Furthermore, no methodology, nor any reasoned methodological approach, has been provided for carrying out a quantitative and/or qualitative impact assessment in accordance with the significance criteria established under Article 31(7) of the Biological Diversity Act and the Ordinance on Appropriate Assessment.

The impact assessment likewise fails to apply specific, species-specific quantitative and/or qualitative indicators for measuring impacts (adverse effects), or indicators developed specifically for each protected site, taking into account the site's conservation objectives, qualifying features, and applicable management regimes.

Nor does the assessment take into consideration the site-specific conservation objectives established by orders of the Minister of Environment and Water, notwithstanding that the

Appropriate Assessment is legally required to be carried out precisely against those conservation objectives.

Pursuant to Article 31(1) and (2) of the Biological Diversity Act and Article 2 of the Ordinance on Appropriate Assessment, an Appropriate Assessment must be undertaken with reference to the conservation objectives of the protected site concerned.

Where detailed site-specific conservation objectives have not yet been developed, the applicable conservation objectives remain those contained in the designation order for the respective Natura 2000 site together with the information contained in the relevant Standard Data Form (SDF), in accordance with the European Commission's guidance on the application of Article 6(3) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive), including:

- *Guidance on the Appropriate Assessment of Plans, Programmes, Projects and Investment Proposals in relation to the Conservation Objectives of Natura 2000 Protected Sites* (Ministry of Environment and Water, 2013); and
- *European Commission (2018), Managing Natura 2000 Sites – The provisions of Article 6 of the Habitats Directive 92/43/EEC.*

It should be emphasised that, as of the present date, detailed site-specific conservation objectives within the meaning of Article 12a(1) of the Biological Diversity Act and Article 6(3) of the Habitats Directive have already been developed and formally adopted for a substantial number of Natura 2000 sites.

Accordingly, the Appropriate Assessment of the draft Integrated National Energy and Climate Plan in relation to the qualifying features and conservation objectives of the Natura 2000 network should be carried out on the basis of those detailed site-specific conservation objectives wherever such objectives have been adopted. Where they have not yet been adopted, the assessment should instead rely upon the conservation objectives established by the relevant designation orders issued by the Minister of Environment and Water until such detailed objectives are formally approved.

It is precisely the absence of a transparent and scientifically substantiated assessment methodology, together with the lack of site-specific and species-specific impact indicators, including indicators reflecting the adopted conservation objectives of each protected site, that renders the conclusions reached subjective, insufficiently reasoned and inadequately substantiated.

In practice, nothing contained in Section 5 of the Appropriate Assessment Report objectively evaluates or properly reflects the anticipated potential impacts, their magnitude or their significance in relation to the specific assessment object—that is, each Natura 2000 protected site—having regard to its qualifying features, conservation objectives and applicable management regimes.

Furthermore, the Report employs an entirely subjective and exceptionally vague concept as an impact indicator, namely "short-sighted siting".

This expression is neither methodologically nor conceptually defined. The authors fail to explain what they understand by "short-sighted siting", which locations would instead constitute "appropriate" or "far-sighted" siting, according to which measurable criteria such a distinction is to be made, or how this concept corresponds to the legally established criteria governing the assessment of impacts upon Natura 2000 sites.

Nevertheless, on the basis of this undefined and inherently subjective concept, the Report repeatedly concludes that certain policies and measures contained in the draft NECP may result in habitat loss, barrier effects, habitat fragmentation, disturbance or mortality of protected species, without having undertaken any genuine assessment of either the probability or the significance of such impacts in relation to the qualifying features and conservation objectives of the individual Natura 2000 sites concerned.

The Report further adopts the fundamentally incorrect methodological assumption that whenever impacts could theoretically arise as a consequence of hypothetical "short-sighted siting" of wind energy infrastructure, or where there exists a mere possibility of affecting protected habitats or species, such circumstances automatically amount to significant adverse effects upon the protected site concerned.

This proposition—that every potential direct or indirect effect on habitats or species must necessarily be regarded as significant—is legally incorrect and inconsistent with both the Biological Diversity Act and the Habitats Directive (92/43/EEC). Neither instrument establishes such a presumption. Indeed, acceptance of such an approach would deprive the Appropriate Assessment procedure itself of any practical meaning by replacing the legally required case-specific assessment with a presumption that any intervention affecting habitats or species automatically constitutes a significant adverse effect.

It should instead be emphasised that the significance of an impact is not determined solely by whether a habitat or species may be affected, but rather by whether that impact adversely affects the structure, functions, extent, ecological connectivity, or favourable conservation status of the habitat or species concerned. This, in fact, constitutes the very purpose of an Appropriate Assessment Report—to determine whether impacts upon habitats and species are sufficiently significant to affect the integrity of the Natura 2000 site. That assessment has not, in reality, been carried out.

Instead, the Appropriate Assessment Report relies upon broad and generalised statements unsupported by any specific reasoning concerning the individual policies or measures contained in the draft NECP. Nor does it contain quantitative indicators derived from the actual characteristics and parameters of the strategic planning framework established by the NECP.

Consequently, the conclusions concerning the significance of impacts are not supported by objectively verifiable evidence, quantitative analysis or any demonstrable causal relationship

between the proposed policies and measures of the draft NECP and the qualifying features or conservation objectives of the individual protected sites.

The overall logic underlying the assessment is inconsistent with the fundamental purpose of the Appropriate Assessment procedure, namely to determine whether implementation of the plan is likely to have a **significant adverse effect** on the qualifying features and **conservation objectives** of Natura 2000 sites. Instead, the Appropriate Assessment Report considers only the hypothetical possibility that impacts might arise as a consequence of the undefined concept of "short-sighted siting".

This constitutes a material inconsistency with the requirements governing the Appropriate Assessment of plans and programmes under Article 6(3) of the **Habitats Directive (92/43/EEC)** and Article 23(2)(5) of the **Ordinance on Appropriate Assessment**. Accordingly, the conclusions reached are objectively open to challenge and cannot lawfully serve as the basis for the mitigation measures proposed in Section 6.2.

A further fundamental methodological deficiency of the assessment is its failure to distinguish between:

- the objects of assessment, namely the **structure**, **functions**, and **conservation objectives** of the Natura 2000 sites; and
- the **mechanisms through which impacts may occur**.

Within the Appropriate Assessment Report, potential impacts have incorrectly been presented as though they themselves constituted conservation objectives or ecological functions. Consequently, no genuine assessment has been undertaken of the structure, ecological functions or conservation objectives of the Natura 2000 sites.

Section 5.2 identifies habitat loss, fragmentation, barrier effects, mortality of individuals, disturbance, and changes in species composition as "functions" and "conservation objectives". These, however, are not ecological functions or conservation objectives. Rather, they are potential impact pathways through which adverse effects may occur. As a consequence, it is impossible to determine how implementation of the NECP would affect the ecological characteristics of the Natura 2000 sites or to undertake a legally compliant Appropriate Assessment.

Even more striking is the text appearing under the sub-heading **"Structure"** in Section 5.2 of the Appropriate Assessment Report.

That section should contain an assessment of the impacts upon the structural integrity of the Natura 2000 sites. Instead, it merely states that thirty-eight of the policies and measures proposed under the draft NECP *may* affect biodiversity, and consequently Natura 2000 sites, if they are implemented through "short-sighted siting".

It should be emphasised that this section:

- does not describe the structure of any individual protected site;
- does not analyse structural ecological components;
- does not identify habitat types;

- does not examine ecological connectivity;
- does not identify functional ecological areas; and
- does not identify key areas supporting protected species.

Accordingly, Section 5.2 contains no genuine analysis of the structure of protected sites.

The assessment fails to consider:

- the spatial distribution of habitats;
- ecological connectivity;
- functional ecological areas;
- key habitats;
- core distribution areas of protected species; or
- any other structural characteristics relevant to the conservation of Natura 2000 sites.

Instead, it merely advances the broad and highly subjective assertion that a number of policies and measures included in the draft NECP may affect biodiversity if wind energy infrastructure is "short-sightedly sited".

Consequently, the information provided in Section 5.2 of the Appropriate Assessment Report does not meet the requirements of Article 6(3) of Directive 92/43/EEC and Article 23(2)(5)(b) of the Ordinance on Appropriate Assessment, which require an analysis and assessment of the effects on the integrity of protected sites, taking into account their structure, functions and conservation objectives, including whether and to what extent the implementation of the NECP may lead to significant impairment of the structural and functional characteristics of specific Natura 2000 sites within Bulgaria's national ecological network

2. The measures proposed in Section 6.2 should be rejected in their entirety as unfounded, disproportionate and excessive.

The mitigation measures proposed in Section 6.2 of the Appropriate Assessment Report are methodologically and scientifically unfounded, lack adequate reasoning, and do not derive from an objective assessment demonstrating clearly established significant adverse effects upon the qualifying features and conservation objectives of the individual Natura 2000 sites concerned.

The proposed measures include highly restrictive limitations, including a complete ban on the deployment of wind farms within the boundaries of all protected areas of the Natura 2000 network, as well as across entire geographical regions, including Dobrudzha, the Eastern Rhodopes and parts of the Burgas region. In addition, buffer restrictions of 6 km and 2 km are envisaged around certain Special Protection Areas for wild birds, which are insufficiently clearly defined as high- and medium-risk zones.

These measures are not supported or objectively substantiated by the necessary analytical justification. In particular, there is no specific analysis demonstrating that, in all of the identified areas, the development of renewable energy sources would result in significant adverse effects on the conservation objectives of the protected sites. There is no established link between a specific policy/measure included in the draft NECP, a specific protected site, a particular species or habitat, a specific impact mechanism, and a clearly justified need for a prohibition or restriction.

Likewise, the proposed buffer zones of **6 km** and **2 km** surrounding sites designated under the **Birds Directive** are entirely subjective and are unsupported by any adequate scientific or methodological justification.

It is unclear why precisely these buffer distances have been selected, on the basis of which scientific, regulatory or methodological criteria they have been determined, which species they apply to, what ecological functions they are intended to protect, and whether they correspond to the actual sensitivity zones of the different bird species, including with regard to disturbance, displacement, fragmentation, changes in the structure of trophic habitats, and mortality. Furthermore, it has not been clarified whether these restrictive buffer zones have been established on the basis of up-to-date monitoring data, spatial risk modelling, analysis (models) of flight activity, cumulative risk assessment, or any other objective criterion justifying their imposition.

The measures proposed in Section 6.2 of the Appropriate Assessment Report are disproportionate and are not differentiated according to the specific risk to the particular conservation target (ornithological species or functional group). These measures introduce general prohibitions covering entire geographical areas, without distinguishing between areas with a genuinely high risk and areas with low sensitivity, including areas of low ornithological value or locations where impacts could be avoided through the application of other mitigation measures proven effective in practice.

The measures formulated in this manner are not aimed at preventing a specifically identified significant adverse effect; rather, they introduce spatial prohibitions based on a general principle, without the necessary methodological and scientific justification and substantiation.

The proposed measures are also inconsistent with the rationale of the required appropriate assessment of plans and programmes in relation to the conservation objectives and subject matter of protected sites. In the analytical part of the Appropriate Assessment Report , insofar as such an assessment can be identified, no specific assessment of the degree of impact on the conservation objectives and features of interest of the protected sites has been carried out. Nevertheless, the measures section proposes extremely restrictive and wide-ranging limitations. In the absence of demonstrated significant effects, the absence of species-specific quantitative assessments, and the lack of site-specific analysis for the individual protected areas, it cannot be concluded that the proposed measures are necessary, justified and proportionate to the expected potential impacts on the protected sites.

It should be emphasised that mitigation measures should derive from identified and demonstrated impacts, be specific, applicable, proportionate, and aimed at preventing or reducing a specific risk to a specific conservation target. In the present case, the proposed measures are formulated primarily as general prohibitions and restrictions, without a clear link to specific conservation objectives and without evidence or objective justification demonstrating that the application of other, less restrictive mitigation measures, including integrated early-warning systems and, where necessary, the curtailment of wind energy facilities' operation, would be equally effective and sufficient. This is particularly relevant given that this is precisely the approach and principle introduced by the Ministry of Environment and Water for establishing conditions aimed at limiting

impacts on ornithofauna when approving and/or assessing investment proposals, plans and programmes within the procedures for environmental assessment (EA), environmental impact assessment (EIA) and appropriate assessment (AA).

On the other hand, a significant argument against the measures proposed in Section 6.2 of the Appropriate Assessment Report is that these measures do not correspond to, and are not aligned with, the prohibitions and restrictions established by the Minister of Environment and Water in the designation orders for the respective protected sites.

It should be emphasised that, out of a total of 120 Special Protection Areas designated under the Birds Directive, an explicit prohibition on the construction of renewable energy production facilities has been imposed for only 29 sites, and only within the boundaries of the respective protected sites. This means that, for the remaining protected sites, the competent authority did not consider the development of renewable energy as a key factor or driving force likely to cause deterioration of conservation status or adverse effects on the conservation features and objectives requiring an explicit prior prohibition at the time of designation.

In this respect, the measure proposed in the Appropriate Assessment Report for a complete ban on wind energy projects within the boundaries of all protected sites is more restrictive than the regimes currently in force established by the designation orders for those sites. Such a measure could only be justified if supported by a specific and up-to-date assessment demonstrating that, in all protected sites, the construction and development of wind energy projects pose a risk of significant adverse effects on the conservation features and objectives.

It should be emphasised that such an analysis is absent from the AA Report and has not been carried out. Nevertheless, the AA Report proposes the introduction of a general ban on wind farms in all protected sites, as well as additional buffer restrictions outside their boundaries, without any analysis demonstrating why the existing conservation regimes established by the designation orders of the Minister of Environment and Water are insufficient. No new scientific data, new threats, changes in the conservation status of species, or other circumstances have been identified that would provide a reasoned justification for the need to extend the restrictions beyond the already established activity regimes set out in the designation orders for the protected sites.

In practice, the AA Report introduces a new general prohibitory regime for renewable energy development that derives neither from the designation orders for the protected sites nor from a site-specific assessment of the risks associated with each protected site.

Particularly unjustified and unacceptable is the introduction of restrictive buffer zones (2 km and 6 km) around protected sites for which the designation orders themselves do not provide any prohibition on renewable energy development. In the absence of evidence demonstrating a functional dependence of the conservation features on all land within these buffer zones, and in the absence of any analysis explaining why precisely these setback distances are necessary, the proposed restrictions cannot be regarded as proportionate, justified or adequately substantiated.

A substantial proportion of the areas covered by the proposed prohibitions and restrictions (agricultural land located outside protected sites) consists of intensively cultivated agricultural

land. These areas form part of agro-ecosystems that have undergone a high degree of anthropogenic transformation and are characterised by annual soil cultivation, mechanised farming practices, the use of mineral fertilisers and plant protection products, and relatively limited biodiversity. Arable agricultural land does not, in itself, constitute a natural habitat within the meaning of Annex No. 1 to the Bulgarian Biodiversity Act and therefore cannot automatically be classified as an area of high conservation value warranting the application of restrictive buffer zones. No analysis has been provided to assess the specific characteristics of these areas, their ecological attributes, their conservation value, or their significance for the conservation features and objectives of the protected sites.

Furthermore, the AA Report, in the section addressing the national and overarching objectives of the draft NECP under the "Decarbonisation" dimension, incorrectly and misleadingly states that wind energy installations cannot be developed in areas surrounding protected sites, relying on provisions contained in an expired planning document with no continuing legal effect (the National Renewable Energy Action Plan 2011–2020). This manifestly speculative assertion is subsequently used as the basis for imposing the highly restrictive measures set out in Section 6.2 of the AA Report.

The approach of transferring restrictions from an expired planning instrument into a new assessment procedure is not only methodologically flawed but also devoid of legal justification. The cited plan (National Renewable Energy Action Plan 2011–2020) has expired and cannot serve as a valid legal or environmental basis for introducing new prohibitions during a new programming period, particularly in relation to a different strategic planning document with a different purpose, scope and legal function, such as the NECP.

The assertion that the adverse effects of the policies and measures in the draft NECP relating to the development of wind energy do not differ in substance from those assessed during the strategic environmental assessment of the National Renewable Energy Action Plan 2012–2020 is entirely unsubstantiated.

None of the above is supported by the necessary evidence, including comparative analysis, updated data, or a reasoned explanation as to why conclusions drawn from a previous planning document can automatically be applied to the current draft NECP. The AA Report contains no assessment demonstrating whether changes have occurred in the conservation status of the relevant species, the spatial distribution of risk, the identification of sensitive areas, risk management technologies, or the applicable regulatory framework.

From a legal and regulatory perspective, it is fundamentally unsound to rely on different planning instruments serving different purposes—such as the National Renewable Energy Action Plan 2011–2020 and the Plan for the Designation of Priority Areas for the Development of Wind Energy—in determining and applying mitigation measures under the NECP. Moreover, the former plan has expired and no longer produces legal effects, while the latter has not been adopted and therefore likewise has no legal effect.

Furthermore, the condition that the comprehensive restrictions and prohibitions on the development of wind energy projects set out in Section 6.2 of the AA Report should become

applicable only after the adoption of the Plan for the Designation of Priority Areas for the Development of Wind Energy is entirely unjustified, legally unsustainable, and unsupported by any adequate legal reasoning.

In practice, this condition transforms the criteria for identifying priority areas into criteria for excluding, restricting and prohibiting renewable energy development in all other areas. It should be stated unequivocally that neither the Renewable Energy Act, the Biodiversity Act, nor the Environmental Protection Act establishes the principle that wind energy projects may be developed exclusively within designated priority areas. Outside such areas, the general legal procedures governing Strategic Environmental Assessment (SEA), Environmental Impact Assessment (EIA), and Appropriate Assessment (AA) continue to apply, requiring each individual project to be assessed on the basis of its specific location, characteristics, level of risk, and potential environmental effects.

It should also be emphasised that priority areas designated under the Renewable Energy Act are intended to serve an enabling and streamlining function. They are designed to facilitate and accelerate the development of renewable energy projects and do not establish a general prohibition on the development of wind energy projects outside those areas.

Accordingly, the condition that all prohibitions and restrictive measures set out in Section 6.2 of the AA Report should become operational only upon the adoption of the Plan for the Designation of Priority Areas is devoid of legal and regulatory justification. This condition, and the measures associated with it, do not arise from a project-specific appropriate assessment of the compatibility of the draft NECP with the conservation objectives and integrity of the protected sites, as required by law. Instead, they mechanically reproduce restrictions originating from an expired planning document (the National Renewable Energy Action Plan 2011–2020) and from a draft planning instrument serving an entirely different legal purpose.

The proposed prohibitions are therefore not derived from a specific assessment of the likelihood of significant adverse effects on protected sites but instead result from the formal transposition of outdated and conditional criteria. Such an approach has not been substantiated in accordance with Article 6(3) of Directive 92/43/EEC, Article 31 of the Bulgarian Biodiversity Act, and Article 23(2)(5) of the Ordinance on Appropriate Assessment.

A further significant argument in this regard is that the AA Report concludes that **Measure No. 82 (EN6)** – *Introduction of a planning process for the designation of priority areas for the accelerated development of wind energy generation facilities* – will have no effects on Natura 2000 sites because, pursuant to Article 5(5) of the Renewable Energy Act, priority areas for the accelerated development of wind energy projects cannot be designated within protected sites.

If this reasoning is considered sufficient to exclude the likelihood of significant effects in relation to Measure No. 82, then the same principle should logically be applied to all other wind energy projects that are likewise located outside protected sites and are subject to an individual appropriate assessment procedure under Article 31 of the Biodiversity Act.

Accordingly, the introduction of general prohibitions and buffer restrictions covering all other areas does not logically follow from the conclusions reached in the AA Report and is not supported by the necessary analysis or assessment demonstrating why such projects would present a greater risk than projects implemented within the priority areas established under Measure No. 82. This creates the impression that the proposed restrictions are not based on a project-specific assessment of potential effects on Natura 2000 sites, but rather on a predetermined policy preference favouring development within priority areas while restricting development in all other areas. Such an approach is inconsistent with the Renewable Energy Act, the Biodiversity Act and the Environmental Protection Act.

In view of the above, the measures proposed in Section 6.2 of the AA Report cannot be regarded as sufficiently appropriate, reasoned, necessary or proportionate. They should therefore be rejected as excessively restrictive and inadequately substantiated.

3. An explicit distinction should be made between "areas outside priority areas for accelerated renewable energy development" and "areas where projects are legally inadmissible", in accordance with Article 5(10) of the Renewable Energy Act and the European Commission's Guidance SWD(2024) 333 final of 13 May 2024.

Article 5(10) of the Renewable Energy Act expressly provides that the preparation and adoption of the plan for priority areas does not exclude the possibility of developing and implementing projects outside those priority areas, provided that the applicable legal requirements are complied with.

This is a fundamental legal provision that the AA Report systematically disregards. Recommended Measure No. 2 effectively deprives Article 5(10) of the Renewable Energy Act of its practical effect by creating an administrative practice under which the competent authorities and interested parties would treat all areas outside the designated priority areas—particularly Natura 2000 sites—as undesirable or, in practice, legally inadmissible for renewable energy development.

4. It should be expressly provided that the measures and restrictions arising from the Appropriate Assessment Report (AA Report) for the NECP 2024 shall not apply to investment proposals and projects for which, as of the date of adoption of the final opinion, Environmental Impact Assessment (EIA) decisions, Appropriate Assessment (AA) decisions, or other individual administrative acts issued pursuant to the Environmental Protection Act and the Biodiversity Act are already in force.

In our view, the application of new strategic restrictions to projects that have already undergone individual environmental assessment procedures and have obtained the relevant administrative approvals would be contrary to the principles of legal certainty and the protection of legitimate expectations. The Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) procedures constitute specialised mechanisms for assessing potential effects on the environment and Natura 2000 sites on the basis of project-specific information, including the precise location, technology, environmental characteristics, and mitigation measures of each individual project. It is not appropriate for a strategic planning document of a general nature subsequently to call into question or effectively negate the outcomes of completed project-level assessment procedures.

Accordingly, we propose that the final opinion expressly state that the proposed measures and restrictions shall apply exclusively to future investment proposals and shall not affect projects that have already reached an advanced stage of development or that are covered by valid Environmental Impact Assessment decisions and/or Appropriate Assessment decisions.

5. A genuine and objective assessment of cumulative effects should be carried out.

The figure of **56,000 MW** of "processed" wind energy capacity cited in the Report includes projects that have not been implemented, projects for which the relevant procedures have expired, and projects that have been submitted repeatedly. The actual installed wind energy capacity in Bulgaria is significantly lower, amounting to approximately **716 MW (0.716 GW)** at present. Reliance on the nominal capacity of projects that have entered administrative procedures, rather than on actual installed or realistically foreseeable capacity, artificially inflates the assessment of cumulative effects and results in a systematic distortion of the analysis.

In practice, the AA Report does not contain a meaningful assessment of cumulative effects. The findings and conclusions set out in Sections 2 and 5.2 are based on general information and lack the necessary specificity, analytical depth and evidentiary support.

The Report does not provide specific quantitative indicators, metrics or assessment criteria capable of establishing which proportion of the policies and measures listed in Annex 1.1.3-1 has already been implemented or is expected to be implemented in the future.

Nor does it provide any information or analysis identifying which policies and measures contained in other national plans and programmes, when considered together with the new policies and measures proposed in the updated NECP, may give rise to cumulative effects on the conservation features and conservation objectives of protected sites.

On the other hand, the cumulative assessment of the policies and measures listed in Annex 1.1.3-1 is overly general and does not include an analysis of the extent to which those measures have already been implemented or the degree to which their implementation affects specific Natura 2000 sites within Bulgaria's national ecological network. The Report provides no information as to how many of the measures and policies listed in Annex 1.1.3-1 actually affect protected sites, which protected sites are concerned, the nature and extent of those effects, which functional parts of the sites are affected, which protected habitats or species are concerned, or whether such effects have the potential to act cumulatively with the impacts arising from the new policies and measures proposed under the NECP.

The cumulative impact assessment presented in the AA Report is not based on a clearly identifiable and transparent methodological approach for the assessment of cumulative effects. Nor does the Report explain how, or on what basis, all investment proposals, plans and programmes affecting Natura 2000 sites and listed in Annex 1.1.3-1 have been identified, taken into account and evaluated.

The AA Report reaches the broad conclusion that more than **110,000 MW** of renewable energy capacity was subject to administrative procedures during the period **2007–2025** and, on the basis of this figure, concludes that the wind energy facilities already constructed have generated

significant cumulative effects on populations of protected bird and bat species, including where those facilities are located outside Natura 2000 sites.

This raises serious concerns regarding the reliability and objectivity of that conclusion in light of the information presented in Annex 5.2-1. It is apparent from that annex that the cumulative assessment includes all renewable energy investment proposals, plans and programmes (including both wind farms and photovoltaic installations) that have entered administrative procedures, without any analysis of their actual likelihood of implementation or their continuing legal validity. As a consequence, the cumulative development pressure has been artificially inflated through the inclusion of abandoned, unimplemented or legally ineffective investment proposals and projects. The cumulative assessment, and its far-reaching conclusion regarding significant cumulative effects arising from wind energy facilities, therefore fails to provide an objective representation of the actual cumulative baseline, as it relies to a substantial extent on projects and investment proposals that have lapsed, lost their legal effect, or no longer have any realistic potential to contribute to cumulative environmental effects.

Furthermore, the conclusion that there are significant cumulative effects on protected bird and bat populations, both within and outside Natura 2000 sites, is methodologically and scientifically unfounded. It is not supported by adequate reasoning and does not derive from an objective assessment of the potential cumulative effects on the conservation features, site integrity and conservation objectives of the individual Natura 2000 sites concerned, whether within or beyond their designated boundaries.

Accordingly, all conclusions reached regarding the significance and potential of the cumulative effects associated with wind energy infrastructure are subjective, significantly overstated, and fail to reflect the actual situation in Bulgaria.

In conclusion, and in light of all the arguments set out above, we consider that the Appropriate Assessment Report for the Updated National Energy and Climate Plan (NECP) 2024 contains substantial legal deficiencies, methodological inconsistencies and scientific shortcomings which prevent it from providing an objective, reliable and scientifically sound assessment of the potential effects on Natura 2000 sites within Bulgaria's national ecological network.

The measure proposed in Section 6.2 of the Report introduces unjustified and excessively restrictive territorial prohibitions and restrictions that:

- exceed the scope and legal mandate of the appropriate assessment procedure under Article 31 of the Bulgarian Biodiversity Act;
- are inconsistent with European Union law, including Directive (EU) 2023/2413 (RED III), Council Regulation (EU) 2022/2577, the European Commission Guidance SWD(2024) 333 final, and the REPowerEU Plan;
- are contrary to Article 5(10) of the Bulgarian Renewable Energy Act;
- are inconsistent with the case-law of the Court of Justice of the European Union, which requires an individual assessment of each project; and
- are not supported by any quantitative scientific assessment and fail to take account of modern mitigation technologies.

At the same time, the Report itself concludes, in Section 9, that implementation of the Plan is expected to have only insignificant effects on the integrity and structure of the Natura 2000 sites. Nevertheless, it proposes the most restrictive measures possible, namely comprehensive prohibitions and extensive buffer zones. This is logically inconsistent and internally contradictory.

Accordingly, the Report, in its present form, cannot be regarded as providing a reliable basis either for the approval of the NECP or for the implementation of the Republic of Bulgaria's commitments under the Paris Agreement, the European Green Deal, the *Fit for 55* package, and the REPowerEU Plan.

In view of the foregoing, we consider that the Appropriate Assessment Report for the Updated National Energy and Climate Plan (NECP) 2024 should not be approved in its current form and that the measures set out in Section 6.2 should be comprehensively revised and withdrawn.