

The Infrastructure Future Act (InfraStZuG)

FRESH MOMENTUM FOR THE PLANNING AND APPROVAL OF INFRASTRUCTURE PROJECTS



Executive Summary

- The new German Infrastructure Future Act (*Infrastruktur-Zukunftsgesetz*, “InfraStZuG”), which came into force on 28 July 2026 (Federal Law Gazette I 2026 No. 224), is intended to accelerate and digitise the planning and approval procedures for infrastructure and energy projects, while also providing greater legal certainty. Key elements enshrined in the new law include the classification of critical transport projects as being in the overriding public interest, which takes precedence over conflicting concerns – particularly environmental ones – in the balancing of interests, the streamlining of deadlines and duplicate assessments and the introduction of a fully digitalised planning approval procedure. The InfraStZuG also offers relief in connection with environmental protection and nature conservation regulations, most notably through the equal treatment of financial compensation and other compensatory measures (Section 15(6a) of the Federal Nature Conservation Act (*Bundesnaturschutzgesetz*, “BNatSchG”)) and by scaling back the environmental impact assessment (EIA) required for additional rail projects to the scope required under EU law (Section 21 of the Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung*, “UVPG”)).
- It should be noted that the amendments to the BNatSchG will not come into force until a later date and that transitional provisions apply in the interim. Procedural risks also remain in relation to digital publication and the display of documents, as well as the protection of confidential information (Sections 27a, 72 and 73 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*, “VwVfG”)). Project developers are therefore advised to prepare planning documents in a form that can be inspected at an early stage, document the balancing of interests in a manner that would stand up to examination in court and consider appointing a project manager (Section 73d VwVfG).



The expansion and modernisation of Germany's infrastructure – from transport routes and energy grids to facilities supporting the energy transition – is a key priority for the coming years. The Infrastructure Future Act aims to significantly speed up and digitise planning and approval procedures, while also creating greater legal certainty. For project developers and other stakeholders in the infrastructure and energy sectors, this primarily means faster procedures and greater predictability when planning their projects. The following article provides an overview of the key new regulations and their implications for infrastructure projects.

Background and objectives

Lengthy and complex planning and approval procedures are generally regarded as one of the biggest obstacles to implementing urgently needed infrastructure and energy projects in Germany. The Infrastructure Future Act (*Infrastruktur-Zukunftsgesetz*, "InfraStZuG") came into force on 28 July 2026 (Federal Law Gazette I 2026 No. 224), having previously been submitted to the legislative process by the federal government via Bundestag document 21/4099, dated 11 February 2026.

Laws aimed at speeding up administrative processes are by no means a new phenomenon, but rather a perennial issue in legal policy (Geiger, GewArch, Issue 5/2026). Legislation such as the Transport Infrastructure Planning Acceleration Act (*Verkehrswegeplanungsbeschleunigungsgesetz*, "VerkPBG", 1991) and the Infrastructure Planning Acceleration Act (*Infrastrukturplanungsbeschleunigungsgesetz*, "InfraStrPlanVBeschlG", 2006) has played a significant role in German planning law since the early 1990s. Between 2022 and 2024, this trend was further boosted by the climate crisis, the energy and transport transitions, as well as gas supply bottlenecks due to the war in Ukraine, and facilitated by the relaxation of environmental protection and nature conservation requirements at the EU level (including EU Emergency Regulation 2022/2577, EU RED III 2023/2413) and in federal law (including amendments to the ROG, UVPG, BNatSchG, EnWG, VwVfG and VwGO) (Geiger, GewArch, Issue 5/2026). By adopting the InfraStZuG, the legislator is continuing in this tradition, streamlining procedures,

eliminating duplicate assessments and creating a more reliable and predictable framework for public authorities and project developers alike.

New regulations relevant to infrastructure planning

The following regulatory changes have specific implications for sectoral planning and infrastructure law:

Accelerating planning procedures

The new legislation focuses on making procedures more efficient – by introducing tighter deadlines, consolidating reviews and assessments, or running these in parallel, and allowing the regulatory review to focus more closely on aspects that are actually relevant to the final approval decision. A key instrument is the classification of a wide range of transport infrastructure projects as being of overriding public interest, which is now enshrined in law, for example, under Section 1 (3) of the Federal Railways Expansion Act (*Bundesschienenwegebautengesetz*, "BSWAG") for railways, Section 1 (3) of the Federal Trunk Roads Expansion Act (*Fernstraßenausbaugesetz*, "FStrAbG") and Section 3 (1) of the Federal Trunk Roads Act (*Bundesfernstraßengesetz*, "FStrG") for federal trunk roads and bridges, and Section 1 (3) of the Federal Waterways Act (*Bundeswasserstraßengesetz*, "WaStrAbG") for federal waterways. These projects serve both public safety and the interests of national and alliance defence and take precedence over conflicting concerns – particularly environmental ones – in a balancing of interests (see Bundestag document 21/4099, pp. 16 et seq., 133; Bundestag document 21/6701, p. 21). The new framework therefore tips the scales in favour of such projects in the balancing of interests by public authorities and in sector-specific discretionary decisions – for example, in the case of exemptions under nature conservation law pursuant to Sections 34 and 45 of the Federal Nature Conservation Act (see Bundestag document 21/4099, pp. 53, 127). For example, if the removal of a bottleneck on a federal motorway or the construction of a replacement bridge is met with concerns regarding species protection or environmental pollution, the overriding public interest of such projects is given particular weight as a priority consideration in the balancing of interests and generally prevail (see



Bundestag document 21/4099, pp. 21, 114). According to the recommendation of the Committee on Transport, this does not mean that the outcome of any such balancing of interests is necessarily predetermined; however, it does indicate a clear weighting on the part of the legislator in favour of an accelerated procedure. At the same time, these projects are given significantly greater weight in judicial assessments (see Bundestag document 21/6701, pp. 57 et seq., 77). For project developers, this reduces the risk of legal challenges – making the preparation of robust, legally sound documentation of the balancing of interests all the more important. However, critics of the legislative process argue that the blanket definition of “overriding public interest” is vulnerable to challenges under constitutional law (Article 20a of the Basic Law of the Federal Republic of Germany; see Bundestag document 21/6701, p. 55). This specifically covers measures financed from the Special Fund for Infrastructure and Climate Neutrality, such as those aimed at eliminating bottlenecks on federal transport routes and rail projects, as well as the construction of new federal motorways and four-lane federal roads. Additionally, previously duplicated procedural steps are to be streamlined, for instance by combining spatial impact assessments with the route determination process for transport projects. For project developers, this means that carefully structured preparation of the planning application from an early stage is now an even more decisive factor in successfully managing a project’s timeline.

Digitisation of procedures

The new legislation envisages a standardised planning approval procedure that will, in the future, be entirely digital by default, while also consolidating similar procedural provisions from the relevant sector-specific laws into the Administrative Procedure Act (see Bundestag document 21/4099, pp. 149 et seq., 167). Project developers will be able to submit their complete planning electronically, typically via an official data platform that also facilitates model-based working, for example using Building Information Modelling (BIM). Applications, public participation and objections will be handled via an application and public participation portal (sectoral planning portal) (see Bundestag document 21/4099, pp. 35, 149). This digitised

process will encompass everything from electronic applications and digital participation formats to electronic communication with public authorities. In addition, deemed approvals and a simplified formal consultation process with other authorities are intended to reduce co-ordination time. While this reduces the administrative burden, it requires project developers to begin procedural and technical preparations at an early stage.

The procedural framework set out in Sections 72 et seq. of the Administrative Procedure Act (VwVfG) remains in place – and should be reproduced rather than replaced by the digitised process. In practice, this presents project developers and public authorities with a number of challenges:

- **Providing planning documents in reviewable form (Section 73 VwVfG):** Seamless processing of large, heterogeneous documents (maps, expert reports, EIA and GIS/BIM data); incomplete applications will result in requests for further information, even if the platform is used.
- **Legally compliant digital publication (Section 27a VwVfG):** Reliable evidence of the content, timing, duration and integrity of the notice; any errors may be deemed procedural irregularities.
- **Digital display and public participation:** Documents must be complete and provided in good time, in a form that is accessible and reliably available to all, to allow for the submission of objections in the proper form.
- **Access to documents and confidentiality (Section 72 VwVfG):** Access to files is granted only at the due discretion of the competent authority; in the digital context, this requires redaction, role-based access rights and the protection of personal data, as well as trade and business secrets.
- **Critical infrastructure and IT security:** Increased need for confidentiality (recommendations of the German Bundesrat); as time limits and rights are involved, highly available, fail-safe portals are essential.
- **Media discontinuities and standardisation:** Standardised portals, metadata, file formats and deadline logic are required; otherwise, every interface between



the parties involved poses a risk to the completeness and accuracy of the records.

- **Deemed approvals and commencement of time limits:** Legally watertight determination of when a digital application has been received in full and whether the time limit is suspended.

Approval procedures

The new law introduces three significant simplifications in the area of nature conservation and environmental protection law. Firstly, nature conservation and environmental protection regulations are now easier to enforce. Secondly, financial compensation is defined as legally equivalent to actual mitigation and restoration measures in the case of certain compensation obligations under nature conservation law for projects of overriding public interest (Section 15(6a) BNatSchG). Thirdly, in the case of additional rail projects, the environmental impact assessment has been scaled back to the level required under EU law (Section 21 UVPG); see Bundestag document 21/4099, pp. 1 et seq., 53, 145 et seq.). As set out in the supporting documents, the compensation provision is derived from the case law of the Federal Administrative Court (judgement of 12 September 2024, 7 C 3.23), which had called into question the previous assumption of financial compensation as the primary form of compensation and raised difficult questions regarding the practical application of compensation in kind (see Bundestag document 21/4099, p. 199). In this context, Section 15(6a) of the Federal Nature Conservation Act clarifies that the

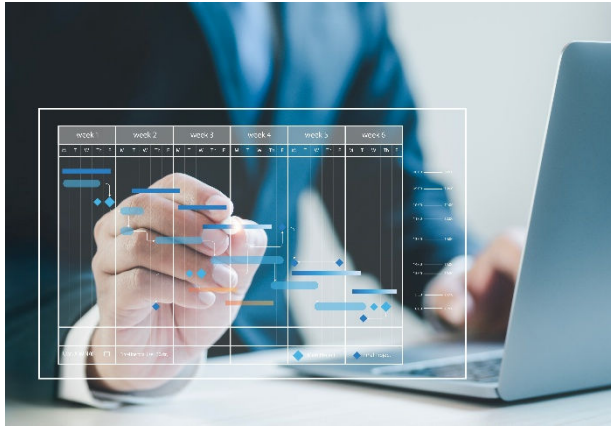
payment of financial compensation and compensation in kind are equivalent and legally compliant options. This means that, in cases where actual mitigation or restoration measures cannot be implemented, or can only be implemented with considerable effort, project developers can fulfil their compensation obligations in a legally compliant manner by paying financial compensation, without first having to prove that compensation in kind is not possible. This prevents potential delays to the project. However, it should be noted that, unlike the other provisions of the Infrastructure Future Act, the amendments to the Federal Nature Conservation Act will not come into force until a later date. In accordance with Article 72 (3) sentence 2 of the Basic Law of the Federal Republic of Germany, this will be on the first day of the seventh calendar month following their promulgation. A transitional provision also applies to projects that have already been initiated or for which an application has been made (Section 74(7) BNatSchG; Article 19(2) InfraStZuG; see Bundestag document 21/4099, pp. 51, 146, 165 et seq.). These simplifications are supplemented by deemed approvals (see Section 42a VwVfG) and a simplified formal consultation process, which grants the planning approval authority final decision-making authority, meaning that procedures can no longer fail due to the absence of a statement of agreement (see Bundestag document 21/4099, pp. 53, 130). The opportunities (i.e. faster and more predictable approval procedures) and risks are closely intertwined. During the legislative process, critics likened the equal treatment of financial compensation and actual compensatory measures to an environmental “sale of indulgences” that offered no immediate environmental benefit (see Bundestag document 21/6701, p. 60). By familiarising themselves with the requirements at an early stage, developers and public authorities can ensure that approval decisions are legally sound and will stand up in court, whilst avoiding costly delays caused by appeals.



Role of the project manager

The government's draft did not initially include any provisions for the appointment of a project manager as part of the newly consolidated planning approval procedure under the Administrative Procedure Act. At the request of the Bundesrat, however, this issue was reviewed during





the legislative process (see Bundestag document 21/4099, p. 208 et seq.). The Committee for Transport subsequently introduced a general provision in the form of the new Section 73d of the Administrative Procedure Act (see Bundestag document 21/6701, pp. 33, 81). According to this provision, the planning approval authority may, on the proposal of or with the consent of the project developer, commission a third party to prepare and carry out procedural steps – such as drawing up procedural schedules and setting interim deadlines, managing the quality of the application documents, monitoring deadlines, coordinating expert reports, drafting hearing reports and decisions, and preparing and chairing public hearings (see Bundestag document 21/6701, p. 33). This reduces the workload for public authorities, which are often overstretched, and speeds up the process. The project developer bears the costs of a project manager commissioned on their proposal or with their consent (see Bundestag document 21/6701, p. 63). However, the decision on an application for planning approval or planning permission always rests with the authority; any tasks that could influence the authority's assessment must not be delegated to the project manager (see Bundestag document 21/6701, p. 33; Bundestag document 21/4099, p. 163). Effective management of the process therefore requires both knowledge of sectoral planning law and experience of the practical procedures between the relevant stakeholders.

Conclusion and outlook

By giving statutory priority to major transport projects, streamlining duplicate procedures and digitising entire processes, the Infrastructure Future Act has the potential to significantly accelerate approval procedures. Whether this potential is realised, however, depends largely on how the new legislation is implemented. This includes adequate staffing and resources, the expertise of project developers and public authorities, public acceptance of the projects affected, swift court proceedings and secure funding.

In practice, the greatest risk does not lie in the technology itself, but in the fact that the digital procedural steps need to fulfil the same legal function as their analogue counterparts. This means that public participation rights cannot be restricted and deadlines and notices must be fully verifiable (Sections 27a, 73 VwVfG). Project developers would therefore be well advised to ensure that their planning documents are technically and procedurally robust from an early stage to avoid subsequent requests for information, irregularities in the display of documents and any other procedural steps susceptible to legal challenge. Looking ahead, the key factor will be whether the federal and state governments, along with local authorities, provide uniform standards and high-performance platforms. Only then can these new acceleration measures be translated into tangible time savings across the board.

Further reading: Gewerbearchiv article

The academic article by **Dr Andreas Geiger**, "The Infrastructure Future Act (InfraStZuG) – Accelerating the Acceleration?", in **Gewerbearchiv – Zeitschrift für das Wirtschaftsverwaltungsrecht (GewArch)**, Issue 5/2026, provides further insight on this topic. The article provides a chronological and systematic overview of the changes and examines the key areas of regulation – ranging from the concept of overriding public interest to the digitisation of the planning approval process and the relaxation of environmental protection requirements. The author is also critical of the fact that the law's significant potential to speed up approval processes will only be realised if



certain additional factors are in place, such as sufficient staffing and resources, specialist expertise among project developers and public authorities, public acceptance of the projects, swift court proceedings and, last but not least, the necessary financial resources.

Do you have any questions? Our lawyers will be happy to assist you.

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