



Federal Ministry  
of Transport and  
Digital Infrastructure

# Strategy for speeding up the planning process

24 May 2017



# Strategy for speeding up the planning process

As a strong industrialized nation located at the heart of Europe, Germany depends on efficient transport networks. They are a crucial locational factor for the Federal Republic of Germany and enable all citizens to enjoy individual mobility.

At the beginning of this parliamentary term, the Federal Government launched an unprecedented investment ramp-up for the transport infrastructure: in 2018, we will make available more than 14 billion euros for the rehabilitation and upgrading of the federal transport networks in line with requirements. This corresponds to an increase in investment by about 40 percent within one parliamentary term.

However, our economy and citizens must not merely benefit from the additional funds on paper. The funds must be promptly invested in planning and construction work where they are urgently needed.

The developers, approval authorities and courts in Germany are working intensively to facilitate the speedy completion of transport infrastructure projects in line with legal requirements. Nevertheless, our planning law offers significant potential for accelerating projects. We have to exploit this potential. With this 12-point strategy, we are creating the conditions for speeding up the delivery of high-quality infrastructure projects in the future.

## 1. Integrated planning and approval processes

In Germany, infrastructure projects are usually approved in a two-stage process consisting of the spatial impact assessment procedure and the plan approval procedure. Here, every transport project is considered by different authorities from different perspectives at different planning stages. This results in a lot of time-consuming duplication of work. Thus, for instance, an environmental impact assessment is carried out both in the spatial impact assessment procedure and in the plan approval procedure.

Therefore, we will select, in consultation with the federal states concerned, individual first priority projects as pilot projects for an integrated approval procedure in

which spatial planning matters are considered in the plan approval procedure. We want to test under real conditions whether we can, by doing so, simplify the environmental impact assessment and make it more efficient and at the same time concentrate public participation in one central approval procedure. Moreover, there would only be one competent authority for this integrated procedure.

## 2. Simplified approval procedures, in particular for new replacement structures

For simple projects, such as new replacement bridges and locks, we have to be able to make greater use of simplified approval procedures. While procedural law already provides for the use of the planning permission procedure in simple cases, this option is not used often enough, among other things because national law - in the case of projects subject to an environmental impact assessment (EIA) - provides for a public local inquiry within the framework of public participation which excludes the possibility of granting planning permission. We want to change that.

We will initiate an amendment to the sectoral planning laws to permit the granting of a qualified planning permission with reduced public participation for certain new replacement structures that are subject to EIA.

## 3. Provisional approval of preparatory construction measures

To be able to implement projects quickly, there sometimes is a desire to already start preparatory construction measures before plan approval is granted. Section 14(2) of the Federal Waterways Act already provides for the possibility of authorizing partial measures if a favourable approval decision is to be expected and if there is an overriding public interest in starting construction ahead of schedule.

We will initiate corresponding amendments to the Federal Trunk Roads Act and the General Railways Act.

#### **4. Assignment of a project manager for the plan approval procedure**

In the energy sector, the possibility of the competent authority appointing, in consultation with the developer, a project manager for the plan approval procedure who is entrusted with preparing and carrying out the official procedural steps (Section 29 of the Grid Expansion Acceleration Act, Section 43g of the Energy Industry (Amendment) Act) has proved its worth.

We will thus initiate the inclusion of corresponding provisions in the sectoral planning laws.

#### **5. Stepping up the involvement of the German Bundestag in matters of alignment**

For projects that are the subject of much public controversy, it can be beneficial for the plan approval procedure if a final decision on the alignment is made beforehand. In Denmark, experience with planning laws has been positive.

For important first priority projects, we will inform the German Bundestag in writing of the preferred alignment and the results of the early public participation prior to launching the plan approval procedure so that the implementation of the projects can be supported politically and the planning can be based on a broad societal consensus. Moreover, we will examine whether for individual projects the alignment can be established on the basis of a spatial and environmental impact assessment by way of a federal act.

#### **6. Dependable financing for speedy planning and implementation of rail projects**

Currently, the Federal Government pays a planning costs lump sum of 18 percent of the construction costs for federal railway infrastructure. However, due to this cap, there is no motivation for Deutsche Bahn AG, despite the pre-financing of the early planning stages with federal funds, to make available sufficient funds for detailed basic

and design planning. Therefore, the Federal Ministry of Transport and Digital Infrastructure, the Federal Railway Authority and Deutsche Bahn AG have prepared a requirement plan implementation agreement over the last few months. According to the agreement, planning services in the early stages, among other things, are to be financed by the Federal Government without capping in order to ensure high-quality planning including early and comprehensive public participation. Within the framework of project implementation, Deutsche Bahn AG is to make a contribution to the total costs of the project. Moreover, binding milestones are agreed for all project stages to create incentives for an economical and speedy implementation of the overall project.

We will finalize the conclusion of the requirement plan implementation agreement negotiated with Deutsche Bahn AG, thereby providing a dependable financial basis for the planning and implementation of complex railway infrastructure projects.

#### **7. Strengthening cooperative partnership**

In the course of the planning and implementation of transport infrastructure, many of the parties involved in the project meet, and all of them have different interests. Thus, such projects are conflict-prone. Early and continuous cooperative partnership can prevent a confrontational basic attitude and conflicts between the parties involved. However, in many cases, there still is no cooperative partnership.

We will create a culture of cooperative partnership in the transport infrastructure projects of the Federal Government. For this purpose, we are carrying out pilot projects that also test financial incentive mechanisms.

#### **8. Digitalization of public participation in the plan approval procedure**

There is currently no obligation to publish notices and plans on the Internet as part of the plan approval procedure. However, the Internet reaches significantly

more people than the possibility to inspect the documents at the town hall.

We will therefore initiate an amendment to the sectoral planning laws to make it mandatory - in addition to the existing applicable publishing rules - to publish all planning documents on the Internet.

## **9. Expansion of BIM to the plan approval procedure**

The Federal Ministry of Transport and Digital Infrastructure's Roadmap for the introduction of building information modeling (BIM) published in December 2015 provides that developers are to use BIM for all projects that are to be newly planned. It would make sense to also improve the exploitation of the opportunities offered by digitalization in the subsequent approval procedure.

We are expanding our activities for the implementation of the Roadmap in order to enable the approval authorities to carry out the further processing of BIM planning in a fully digital manner. We will also increase the level of digitalization in the communication with designers, public agencies and citizens.

## **10. Creating a knowledge platform for environmental protection and the systematic recording of mapping and species data**

A major challenge in the planning of transport infrastructure projects are the comprehensive environmental, nature-related and species-related legal requirements. When it comes to meeting these requirements, there is in some cases great uncertainty on the part of developers and authorities across all modes of transport. This is, among other things, since much of the specialized environmental information, such as, for instance, expert opinions, technical conventions and information on the methodological approach, is not available from one central point. In many cases, databases

covering all modes of transport, from which all relevant mapping and species data of past projects could be retrieved, are not available.

We will therefore concentrate up-to-date specialized environmental information for the transport sector and make it available to developers on a continuous basis. We will make it mandatory for developers in our executive agencies to enter their mapping results into databases, thus making them available for subsequent projects.

## **11. Re-introducing the statute of repose - creating legal certainty**

The German statute of repose, which had proved its worth over many decades and which set a time-limit for objections against projects, thereby creating legal certainty for the parties involved, was not accepted by the European Court of Justice for the environmental field. In the opinion of the Court, objections can only be excluded in cases of abuse, for instance where facts have been withheld intentionally.

We call on the European Commission to initiate an amendment to the EIA Directive to allow us to re-introduce the reasonable statute of repose in Germany and to re-establish - with a view to an orderly completion of the procedure - legal certainty regarding existing objections.

## **12. Updating the lists of protected species**

The Annexes to the Habitats Directive, which list animal and plant species protected throughout the EU, have not been updated since the entry into force of the Directive 25 years ago. This means that protection measures currently have to be taken even for species that are now common again.

We therefore call on the European Commission to revise the Annexes to the Habitats Directive based on scientific criteria to allow for the effective protection of those European species that are really endangered.

## **Publication data**

### **Published by**

Federal Ministry of Transport and Digital Infrastructure  
Invalidenstr. 44  
10115 Berlin

### **As at**

May 2017

### **Layout | Print**

Federal Ministry of Transport and Digital Infrastructure  
Division Z 32

This brochure is part of the Federal Government's public relations work.  
It is issued free of charge and may not be sold.



