

Law on the Acceleration of Administrative Court Proceedings in the Infrastructure Sector (VwVfinfrBG ^{kaAbk.})

Law of 14 March 2023 [Federal Law Gazette 2023 I No. 71](#) ; valid from 21 March 2023, for deviations see [Article 6](#)

6 changes | Printed matter / draft / justification | is cited in 6 regulations

Input formula

Article 1 Amendment to the Administrative Court Act

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The Bundestag has passed the following law:

Article 1 Amendment to the Administrative Court Act

The Administrative Court Act in the version published on 19 March 1991 (Federal Law Gazette I p. 686), last amended by [Article 13 paragraph 2 of the Act of 10 March 2023 \(Federal Law Gazette 2023 I No. 64 \)](#), is amended as follows:

1. The following paragraph 4 is added to [Section 9](#) :

"(4) In proceedings pursuant to [Section 48 paragraph 1 sentence 1 numbers 3 to 15](#), the Senate may refer the dispute to one of its members as a single judge for decision if

1. the matter does not present any particular difficulties of a factual or legal nature and
2. the legal case is not of fundamental importance.

[Section 6 paragraphs 2 to 4](#) shall apply accordingly."

2. The following paragraph 4 is added to [Section 10](#) :

"(4) In proceedings under [Section 50 paragraph 1 number 6](#), the Senate may decide in a composition of three judges if

1. the matter does not present any particular difficulties of a factual or legal nature and
2. the legal case is not of fundamental importance.

[Section 6 paragraphs 2 to 4](#) shall apply accordingly."

3. In [Section 48, paragraph 1, sentence 1, number 3a](#), the words "and offshore wind energy installations in the territorial sea" are inserted after the word "meters".

4. [Section 50 paragraph 1](#) is amended as follows:

- a) In paragraph 6, the full stop at the end is replaced by a comma and the words "on all disputes concerning projects for the construction and connection of terminals for the import of hydrogen and derivatives, as well as on the procedures assigned to it under the [LNG Acceleration Act](#) ."
- b) The following point 7 is added:

"7. on the procedures assigned to it under the [Energy Security Act](#) ."

5. In [Section 80b, paragraph 3](#), the reference to " [Section 80a](#) " is replaced by the words " [Sections 80a and 80c](#)".

6. The following [§ 80c](#) is inserted after [§ 80b](#) : " [§ 80c](#)

(1) In procedures pursuant to [Section 48\(1\) Sentence 1 Numbers 3 to 15](#) and [Section 50\(1\) Number 6](#) , paragraphs 2 to 4 shall apply additionally to the ordering or restoration of the suspensive effect ([Sections 80](#) and [80a](#)). Exempted from sentence 1 are the construction of commercial airports and commercial airfields with a restricted building protection area in [Section 48\(1\) Sentence 1 Number 6](#) and plan approval procedures for open-cast lignite mines in [Section 48\(1\) Sentence 1 Number 13](#) .

(2) The court may disregard a defect in the contested administrative act if it is obvious that it will be remedied within a foreseeable period. Such a defect may in particular be

1. a violation of procedural or formal requirements or
2. a deficiency in the consideration of the planning approval or planning permission.

The court shall set a deadline for remedying the deficiency. If the deadline expires without the deficiency being remedied, Section 80, Paragraph 7 applies accordingly. Sentence 1 does not generally apply to procedural errors pursuant to Section 4, Paragraph 1 of the Environmental Remedies Act.

(3) If the court decides in the context of a balancing of the consequences of enforcement, it shall, as a rule, limit the ordering or restoration of the suspensive effect to those measures of the contested administrative act for which this is necessary to prevent irreversible disadvantages that would otherwise arise. It may make the limited ordering or restoration of the suspensive effect dependent on the provision of security by the beneficiary of the contested administrative act.

(4) When considering the consequences of implementation, the court shall give particular consideration to the importance of projects if a federal law establishes that they are in the overriding public interest."

7. The following paragraph 4 is added to Section 87b :

"(4) By way of derogation from paragraph 3, in proceedings pursuant to Section 48 paragraph 1, sentence 1, numbers 3 to 15, and Section 50 paragraph 1, number 6, the court shall reject statements and evidence which are submitted only after the expiry of a time limit set pursuant to paragraphs 1 and 2 and shall decide without further investigations if the party involved

1. the delay is not sufficiently excused and
2. has been informed of the consequences of missing a deadline.

Paragraph 3, sentences 2 and 3 shall apply accordingly."

8. The following § 87c is inserted after § 87b : "§ 87c

(1) Procedures pursuant to Section 48 paragraph 1 sentence 1 numbers 3 to 15 and Section 50 paragraph 1 number 6 shall be carried out with priority and in an accelerated manner. This also applies

1. for procedures pursuant to Section 47 Paragraph 1 Number 1 if they concern development plans with representations or designations of areas for the projects referred to in Section 48 Paragraph 1 Sentence 1 Numbers 3, 3a, 3b or 5 and
2. for procedures pursuant to Section 47 Paragraph 1 Number 2 if they concern spatial development plans with designations of areas for the use of wind energy.

Special priority should be given to procedures for projects if a federal law establishes that they are in the overriding public interest. Exempted from sentence 1 are the construction of commercial airports and airfields with restricted building protection areas in Section 48 Paragraph 1, Sentence 1, Number 6, and the planning approval procedures for open-cast lignite mines in Section 48 Paragraph 1, Sentence 1, Number 13.

(2) In the proceedings referred to in paragraph 1, the chairperson or the rapporteur shall, in appropriate cases, summon the parties to an early initial hearing to discuss the facts and circumstances of the case and to seek an amicable settlement of the dispute. If no amicable settlement of the dispute is reached at this hearing, the chairperson or the rapporteur shall discuss with the parties the further course of the proceedings and the possible scheduling of the oral hearing.

different entry into force on 01.01.2024

9. After Section 99, Paragraph 1, Sentence 1, the following sentence is inserted:

"If authorities keep records electronically, they must be presented as digitally searchable documents, as far as this is technically possible."

End of different entry into force

10. In Section 102a, paragraph 4, the words "and Section 87c, paragraph 2, sentence 1" are inserted after the reference "number 1".

11. The following paragraph 5 is added to Section 154 :

"(5) To the extent that the applicant is unsuccessful solely on the basis of Section 80c, paragraph 2, the court costs shall be borne by the successful party. Paragraph 3 remains unaffected."

different entry into force on 01.01.2024

12. Section 188b is worded as follows:

" Section 188b

Special chambers or senates shall be established for matters of planning law (planning chambers, planning senates). In particular, they may also be assigned subject areas related to matters of planning law."

End of different entry into force

Article 2 Amendment to the Environmental Remedies Act

The following sentence is added to Section 6 of the Environmental Remedies Act in the version published on 23 August 2017 (Federal Law Gazette I p. 3290), last amended by Article 8 of the Act of 25 February 2021 (Federal Law Gazette I p. 306):

"The above sentences shall apply mutatis mutandis to cases in which the court proceedings for the implementation of a plan amendment or plan amendment procedure have been suspended and are subsequently resumed; the time limit shall run from the date of continuation of the court proceedings."

Article 3 Amendment to the Energy Industry Act

The Energy Industry Act of 7 July 2005 (Federal Law Gazette I p. 1970 , 3621), last amended by Article 3 of the Act of 4 January 2023 (Federal Law Gazette 2023 I No. 9), is amended as follows:

1. Section 43e paragraph 3 is worded as follows:

"(3) The plaintiff shall state the facts and evidence supporting his or her claim within ten weeks of filing the action. Statements and evidence submitted after the expiry of this period shall be admissible only if the plaintiff sufficiently excuses the delay. The reason for the excuse must be substantiated upon request by the court. Sentence 2 shall not apply if it is possible to establish the facts with little effort without the plaintiff's cooperation. The time limit pursuant to sentence 1 may be extended upon request by the presiding judge or the rapporteur if the plaintiff had no opportunity to participate in the proceedings in which the contested decision was issued."

2. The following paragraph 6 is added to Section 43f :

"(6) Section 43e shall apply accordingly."

3. The following sentence is added to Section 44c, paragraph 4

: "In all other respects, Section 43e, paragraph 3 shall apply accordingly."

Article 4 Amendment to the Network Expansion Acceleration Act Transmission Network

The Transmission System Expansion Acceleration Act of 28 July 2011 (Federal Law Gazette I p. 1690), last amended by Article 4 of the Act of 8 October 2022 (Federal Law Gazette I p. 1726), is amended as follows:

1. Section 16, paragraph 5, sentence 2 is replaced by the following sentences:

" Section 43e of the Energy Industry Act shall apply mutatis mutandis to actions challenging a ban on changes. Section 43e of the Energy Industry Act shall apply to actions for an order to issue or lift a ban on changes, with the proviso that applications for the issuance of provisional orders shall replace applications for an order to suspend the effect of the ban."

2. The following paragraph 5 is added to Section 25 :

"(5) Section 43e of the Energy Industry Act shall apply accordingly."

Article 5 Amendment to the Telecommunications Act

In Section 218 Paragraph 1 Sentence 1 of the Telecommunications Act of 23 June 2021 (Federal Law Gazette I p. 1858), last amended by Article 9 of the Act of 20 July 2022 (Federal Law Gazette I p. 1166), the words "Section 99 Paragraph 1 Sentence 2" are replaced by the words "Section 99 Paragraph 1 Sentence 3".

Article 6 Entry into force

- (1) This Act shall, subject to paragraph 2, enter into force on the day following its promulgation*).
- (2) Article 1(9), (12) and Article 5 shall enter into force on 1 January 2024.
- (3) Articles 2 to 4 shall apply to proceedings which have become pending after the entry into force of this Act.

*) Editor's note: The announcement was made on March 20, 2023.

Closing formula

The constitutional rights of the Bundesrat are preserved.

The above law is hereby enacted. It is to be promulgated in the Federal Law Gazette.

Federal President

Steinmeier;

Federal Chancellor

Olaf Scholz

; Federal Minister of Justice

Marco Buschmann

; Federal Minister for Economic Affairs and Climate Action

Robert Habeck

; Federal Minister for Digital Affairs and Transport

Volker Wissing

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