

# Political briefing

## Speed up licensing procedures

Germany's licensing law for the construction of industrial installations is out of date. In order to achieve climate neutrality by the middle of the century, we need to modernise and rebuild entire industrial landscapes from scratch at a breathtaking speed – whereas planning and approval procedures are already now delaying key projects for years. The future development is alarming: In view of the massive need for investment, the competent authorities will suffocate in a flood of procedures while we can say goodbye to the ambitious climate goals.

### Wind turbines alone do not help the climate

Therefore, we must urgently put away with unnecessary bureaucracy and superfluous procedural steps. This is also a constitutional requirement: According to the German Federal Constitutional Court, future generations have a right to demand that we significantly increase the pace of transformation and cut CO<sub>2</sub> emissions as quickly and as much as possible. For this reason, it is a right step that the federal government wants to halve the duration of planning and approval procedures for climate protection and infrastructure projects in the future. However, new wind turbines and solar roofs alone will not make us climate neutral. Faster licensing legislation, as is now to be prepared for new wind farms, power lines or railway lines, must also apply to industrial installations. What use is the most climate-friendly wind and solar energy if we cannot decarbonise our industrial plants due to unnecessary delays?

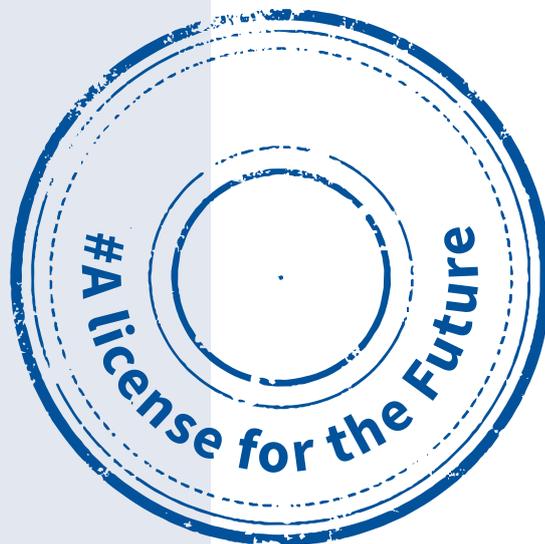
### Update is not enough

Thus, we are facing enormous challenges comparable to those of German reunification. Therefore, an equal effort and a real willingness on the part of all those involved are needed to break new ground. An “alliance of will” between the federal government, the German federal states, society and industry is called for. Without a change of mindset at all levels, we will not be able to master this national effort. We would urge the federal government to present as soon as possible a law to speed up planning and approval procedures, including the licensing of facilities for industry. Furthermore, we appeal to the governments of the federal states to join forces to tackle this

proposal swiftly and implement it uniformly, across political party lines.

### Wolfgang Große Entrup

Chief Executive Officer and Member of  
the VCI Executive Committee



# Unleash the transformation in nine steps

**Politicians and public authorities can do a lot for our future: It is up to them how long planning and licensing procedures take and whether the transformation of the economy is driven forward successfully. Although the federal government wants to halve the duration of procedures, the government is still focusing on climate protection and infrastructure projects in a rather one-sided approach.**

The transformation to a greenhouse gas-neutral economy will only succeed if companies are enabled to manufacture even more efficiently and in an even more climate-friendly manner as rapidly as possible. Therefore, not only wind turbines but also industrial installations urgently need faster licensing procedures. The key to transformation is an acceleration act (“Beschleunigungsgesetz”). The German chemical-pharmaceutical industry has elaborated proposals for a modern licensing legislation:

## Further develop public participation

Citizens must be informed at an early stage about the necessity of new industrial projects. In this context, participation should be limited to those members of the public who are concretely affected and the public hearing – which usually brings no gain in knowledge and is not required under European law – should be abolished. Instead, the questions from the public should be answered in a written procedure.



In the above setting, all relevant items of information must be made available without barriers and in modern formats, while maintaining the balance between the necessary transparency, the protection of confidential business information and security against cybercrime. The deadlines for comments should be standardised at 30 days, and the scope and range of the documents should be reduced to a

level that offers legal certainty. The goal must be a comprehensible citizens report (“Bürgerbericht”). Social acceptance and trust in the knowledge of technical authorities need to be strengthened.

## Protect sensitive company data

Public authorities need to set up protected platforms for procedures, protect documents with watermarks and discuss these technical possibilities in a practice check. In the event of a dispute, it should be clarified promptly in a separate procedure which documents are to remain secret.



## Advance digitisation of public authorities

Analogue licensing procedures must be digitised at long last. Moreover, public authorities should be adequately equipped with IT technology. For a new digital public participation, nationwide evaluation standards need to be developed in Germany.



## Increase staff of public authorities

Given the growing complexity, Germany’s licensing and technical authorities are often understaffed so that more personnel are required. Also, there should be continuous education and advanced training of staff.



## Strengthen land use planning (“Bauleitplanung”)

Municipalities must check early whether the provisions from other fields of law (for example, species conservation) can be complied with or lead to conflicts.





### Modern licensing law is climate protection

More efficient licensing procedures are climate protection par excellence. Just one example from a [recent study](#) (only in German version available): A production plant for basic chemicals is currently being planned in Ludwigshafen, which holds out the promise of CO<sub>2</sub> cuts of some 4 million tonnes – this is more than the potential effect of a domestic flight ban and a speed limit of 130 km/h combined.

### High burden for small and medium-sized enterprises

Today, the costs of licensing procedures amount to 3 to 5 percent of total construction costs. A large part of this is spent on expert opinions. This is a considerable burden, especially for Germany’s roughly 1,600 chemical and pharmaceutical SMEs, as they often cannot afford their own departments for licensing procedures. Companies also need burden-easing with regard to EU legislation. This includes the introduction of an effective “one in, one out rule” that covers all policy fields and takes into account not only the reporting obligations but also compliance costs.

#### Streamline the right of representative action

The higher administrative courts (“Oberverwaltungsgerichte”) should be given first-instance jurisdiction for large-scale industrial projects. Law courts need to be well staffed to ensure the rapid handling of cases.



#### Reduce complexity

Unclear legal terms such as “reasonable” and “proportionate” make the work of public authorities more difficult and raise the fear of procedural errors. Legally sound decisions need a clear wording. A practice check should be carried out to determine whether laws are fit for enforcement and speed up procedures.



For example, the upcoming revision of the Industrial Emissions Directive (IED) should significantly speed up procedures for industrial installations. In addition, the corpus of EU law (“acquis communautaire”) must be systematically examined for obstacles to planning and approval procedures. The EU Commission should have an annual comparative report drawn up on best practices of the Member States in planning and approval law and establish an exchange of best practices.

#### Cut bureaucracy

For every newly planned legal provision, it should be questioned whether it speeds up procedures or constitutes an obstacle. Reporting obligations must be reviewed and documentation requirements brought to a minimum. Double regulation and contradictions should be eliminated; the same applies to provisions that are not necessary under EU law.



#### Trim down EU legislation

Furthermore, the German federal government should take a much stronger stance on European legislation. The multitude of new measures that build on the Green Deal must not be allowed to counteract the important acceleration plans in Germany.



### Good arguments for modern public participation

A [recent legal opinion](#) (only in German version available) highlights important options for the further development of public participation in Germany. Good use should be made of the existing scope for action.

### RIISING NUMBER OF EXPERT OPINIONS

2005



Source: Federation of German Industries (BDI)

2019



#### Imprint

**Publisher** Verband der Chemischen Industrie e.V., Mainzer Landstr. 55, 60329 Frankfurt am Main, Germany, vci@vci.de, www.vci.de, twitter.com/chemieverband  
**Press date** 16 February 2022 **Editor** Monika von Zedlitz **Responsible** Jenni Glaser **Agency partners** Köster Kommunikation, GDE **Icons** © fonikum/GettyImages