

ANNEX 3: SUMMARY OF COUNTRY STUDIES

AUSTRIA

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

Spatial planning takes place at multiple levels: the federal government has sectoral competence for transport, while the federal states retain all remaining spatial planning competence. This includes both ‘actual’ spatial planning competence and sectoral competence in those areas of substantive law for which the states have legislative and executive competence (e.g. nature protection). The municipalities have executive competence for local land use planning.

For permitting of projects requiring an EIA, a distinction is made between federal roads and rail projects and all other projects. In this context, the formal definition of ‘federal roads’ includes all freeways and fast roads included in the annex of the Federal Street Law (BStG). These are, generally, major, high-performance roads that extend long distances without crossings. For federal roads and rail projects, a two-tiered structure is in place: the first layer comprises EIA and all federal law permitting, including areas such as water and waste law, which are integrated into a single procedure for which the Transport Ministry is the relevant authority. All remaining state-level permitting determinations form the second level, in particular nature protection permits, which fall within state competence. This second level is dealt with by the relevant state government, although a subordinate regional administrative agency may sometimes serve as the permitting authority. Where a project crosses state administrative boundaries, the state level procedure must be carried out in each of the states concerned. All other types of projects requiring an EIA (i.e. non-federal roads or rail projects) have a single procedure in which all necessary permits required by federal and state law are issued by the relevant state government. Here, again, projects crossing state administrative boundaries will require parallel processes in a number of states.

The issue of acquiring the land necessary for a road or rail project is distinct from the EIA process. In Austria, this is a relatively straightforward undertaking and is usually resolved through private contracts. Where such agreements cannot be made, Austrian law provides for a quick and effective appropriations procedure.

Major promoters, all of whom are fully federally owned, are: (1) the Austrian Federal Railways (‘ÖBB’), ASFINAG (for federal roads), and (3) via donau, tasked with the preservation and development of the Danube Waterway. Promoters are responsible for their own land procurement processes and contracts.

Austrian law grants the Ministry for Science, Research and the Economy competence in matters of State aid, particularly support for notification of measures to the Commission. This competence includes, in principle, the area of transport. The Transport Ministry has its own council working group for transport, and reports that there have been no difficulties with State aid notifications and decisions.

Summary table: Permitting road and rail projects in Austria

Procedures	
Number of procedures required for a typical project	Between one and three, depending on the nature of the project. Federal roads and railways require three decisions.
Procedures required for typical transport projects	<u>Federal roads and rail (two-tiered procedure):</u> EIA and federal substantive law permitting (one overarching decision). Decision as per state law, especially nature protection law, but also for areas such as fishing or hunting (one overarching decision).

	<p><u>Other projects (including waterborne):</u></p> <p>Single procedure at state level: EIA; Federal substantive law permitting (water, cultural heritage, forestry, worker protection, noise) and state substantive law permitting (particularly nature protection, but also fishing or hunting) resulting in one overarching decision.</p> <p><u>If the project crosses several states:</u></p> <p>Parallel procedures at state level in each state concerned (e.g. several applications, public consultations and decisions).</p>
Number of permitting authorities	Between one and three, depending on the nature of the project. For federal roads and rail projects, there are two permitting authorities (Transport Ministry and state government(s)). For other projects (including waterborne) state government(s) is the sole permitting authority.
Duration of permitting	
Average duration of procedures for a typical project	About 15 years, from early planning to construction, according to project promoters.
Cost of permitting	
Cost of permitting procedure	The EIA procedure (including preparation, permitting and compensatory measures) is the main cost, estimated by project promoters at 5-15% of the entire project spend: for rail, the promoter reported EIA cost at around 5%; for waterborne projects, the cost was estimated at 10-15% of the project budget. Planning alone can cost up to 5%, including pre-monitoring and other measures to establish the baseline. In other cases, despite inexpensive planning, the compensatory mechanisms required can reach 20-25% of the entire project spend. This difference stems from the Danube running through nature parks and other areas under the highest level of protection according to national and EU law.
Streamlining measures	
One-stop-shop?	Yes, for projects where the permitting procedure is fully integrated. This is not the case for federal roads and rail.
Fast-track scheme?	No. There is a simplified EIA procedure, which is linked to the categories of projects defined in EIA law rather than to any public benefit of the project.
Legislative time limits for procedures	There are legislative time limits for EIA procedures (12 months for federal roads and rail and nine months for other projects). These limits, however, are not always respected.
Public consultation	
Effectiveness of public consultation procedures	<p>Public consultation takes place between one and three times during the process (during SEA, if carried out; in the pre-project procedure for federal roads and rail; and during EIA). SEA, which would allow for very early consultation, is not commonly used. For federal roads and rail, the public is consulted prior to the permitting process. Promoters often choose to go beyond the legal requirements and set up extensive consultation mechanisms (e.g. stakeholders' platforms). This is especially the case for waterborne projects.</p> <p>Stakeholders who are parties to the procedure (with party status according to EIA Law) have the right to submit comments at any stage of the procedure. Although the permitting authority has the power to close the procedure to new comments, it rarely does so. This approach has proved inefficient and results in considerable delays.</p>

Summary table: Public procurement for road and rail projects in Austria

Public procurement efficiency	
Decision speed	63 days ¹ . There is a legal time limit of five months for awarding decisions, unless otherwise specified in the tender.
Emphasis on price in award criteria	53% of contracts are awarded on the basis of price ² .
Routine screening for PPPs	According to stakeholders, there are no prospects for PPPs in Austria.
Suspensive effect of appeals against award decisions	Appeals do not automatically suspend the award decision. A successful application for an interim injunction, however, blocks the conclusion of a contract until a decision is reached by the Court.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges:

- Unclear constitutional competency for spatial planning has led to litigation and significant delays. Procedures can be blocked in situations where state governments draw stricter conclusions than, or contradict the conclusions of, the Transport Ministry. The Semmering Base Tunnel is an example of this difference of opinion. In this instance, the Lower Austrian state government rejected the application for a nature protection permit, despite the Transport Ministry finding the nature protection issues ‘environmentally acceptable’. The project remained suspended until it was withdrawn and re-submitted as the Semmering Base Tunnel New Project. Delays stem from the fact that procedures must be duplicated as soon as a state administrative border is crossed, as do additional costs. Differences in the legal frameworks of each of the states involved also creates greater legal uncertainty, weakening the effectiveness of Austria’s otherwise high-functioning EIA integration.
- The Austrian Strategic Transport Assessment Act (SP-V-G), transposing the SEA Directive for the transport sector, only requires an SEA for plans and programmes required by legislative, regulatory or administrative provisions (Federal Roads Law, Federal Law on High-Performance Railway Lines). These changes to the transport network were mostly accomplished long before the creation of the SEA Directive and it is unlikely that they will occur again in the near future. Consequently, a low number of SEAs have been conducted since the transposition of the SEA Directive (seven, as of February 6, 2016). The SP-V-G therefore falls short of EU requirements. This limited use of SEAs has been criticised by the Austrian Court of Auditors, which believes the SEA has the potential to avoid problems in permitting procedures later on³. Case studies have also shown that a wider use of SEA in Austria would improve project planning, facilitate the discussions between the federal government and the States, and reduce public opposition by ensuring earlier public consultation.
- Extensive stakeholder intervention often delays permitting procedures, particularly if the authorities have continued to allow comments and interventions from interested parties throughout the permitting process. Stakeholder intervention has also seen repeated, successful appeals against permitting decisions, necessitating new procedures and causing delays of several years.

¹ Taken from 2014 data in Table 5 from the EU [Single Market Scoreboard](#).

² Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

³ Austrian Court of Auditors (2011) *Bericht des Rechnungshofes: Flächenfreihaltung für Infrastrukturprojekte*, Bund 2011/8. Retrieved on 1 April 2016, from: http://www.rechnungshof.gv.at/fileadmin/downloads/_jahre/2011/berichte/teilberichte/bund/bund_2011_08/Bund_2011_08_8.pdf

- Stakeholders view the current national legal framework for procurement as cumbersome, given that it requires extensive legal involvement for all promoters, irrespective of their size or resources. Although the appeals processes for procurement are swift in principle, projects regularly face delays as a result of challenges to award decisions. The potential difficulties in the present legal framework for procurement creates be considerable concern in a cross-border context, where the variety of legal, linguistic and cultural practices for procurement have led to considerable delays.

Good practices:

- Within state administrative borders, the mid- to high-level of procedural concentration streamlines the process for promoters and decreases the complexities which could cause delays, costs, and increased legal uncertainty. Where the Transport Ministry has competence as the process coordinator, this facilitates a smoother, quicker process.
- Early stakeholder involvement is increasingly seen as necessary, not only for major infrastructure projects (especially those in sensitive areas) but to facilitate more efficient permitting procedures generally, avoid lawsuits (the most significant cause for delay), and contribute to better quality projects overall.
- Although it increases costs, the use of external experts to close knowledge or resource gaps within the authorities concerned helps to avoid unnecessary delays and is generally well integrated into the EIA process.
- Quick and successful negotiations help to acquire land with the minimum of delay. Where such negotiations fail, effective appropriation mechanisms are in place.

CZECH REPUBLIC

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

The permit granting process for TEN-T projects in the Czech Republic is based on the Building Code (Act No. 183/2006 Coll.) and the Administrative Procedure Code (Act No. 500/2004 Coll.). The EIA procedure is laid down in the Environmental Impact Assessment Law (Act No. 100/2001 Coll.) The public procurement procedure is governed by Act No. 137/2006 Coll. on Public Procurement. Several other laws and regulations cover specific aspects of the respective permitting processes.

In the Czech Republic, there are three state organisations concerned with construction and management of the three different types of infrastructure, i.e. road, rail, and water. ‘Reditelstvi silnic a dalnic’ (<https://www.rsd.cz/wps/portal/>) is the road transport authority, ‘Sprava zeleznicny dopravní cesty’ (<http://www.szdc.cz/index.html>) is the rail transport authority and ‘Reditelstvi Vodnich cest’ (<http://www.rvccr.cz/>) is the water transport authority. Each of these authorities is responsible for permitting of individual projects, while the actual construction of the projects is determined by tender, as identified during the public procurement procedure.

In principle, all current TEN-T projects follow a workflow based on the applicable national legislation. The overview of this workflow is presented below:

1. Territorial planning (if project is not already included in the land use plan).
2. Obtaining EIA.
3. Obtaining decisions and binding opinions of the authorities concerned.
4. Zoning decision (EIA binding opinion, as well as further opinions and decisions of the authorities concerned are prerequisites).
5. Obtaining opinions of the authorities concerned.
6. Building permitting (EIA binding opinion, as well as further opinions and decisions of the authorities concerned are prerequisites).
7. Public procurement – tender process and selection of winner.
8. Actual construction of the project.
9. Final operation approval (EIA binding opinion, land use permit, building permit, decisions and opinions of the authorities concerned are all prerequisites.)

The Czech Republic has no so-called one-stop-shop for permitting of TEN-T projects. Different authorities are involved in issuing permits for both land use and building procedures, depending on the type and location of infrastructure. On average, the timeframe to complete all procedures (including the EIA) for a TEN-T project would take between four and 10 years.

Summary table: Permitting of transport projects in the Czech Republic

Procedures	
Number of procedures required for a typical project	Three permits and the EIA statement (four main decisions) plus approximately 10-15 individual permits/opinions from independent authorities for each land use permitting and building permitting procedure.
Procedures required for typical	EIA final statement ⁴ .

⁴ The EIA process is not an integral part of the permitting procedure. However, the EIA statement (if applicable) is issued before the project promoter applies for the first permit (zoning decision). Since April 2015, the EIA statement is binding; making conditions attached to the final EIA statement binding and enforceable in the subsequent permitting procedures, i.e. land-use permitting.

transport projects	Land use permit. Building permit. Final operation approval. This permit allows the actual operation of the construction. However, the project can be in so-called trial operation pending the issuance of the final operation approval, as in the case of the Prague ring road. Approximately 10-15 other decisions/opinions issued by independent authorities, depending on the specificities of the project.
Number of permitting authorities	Three authorities are responsible for delivering the EIA statement and the three main permits (the authority which issues the building permit also issues the final operation approval), plus 10-15 individual authorities, depending on the project.
Duration of permitting	
Average duration of procedures for a typical project	Average duration for road and rail is four years, three years for water projects ⁵ .
Cost of permitting	
Cost of permitting procedure	Up to 10% of the construction cost for road and rail projects including EIA ⁶ .
Streamlining measures	
One-stop-shop?	No.
Fast-track scheme?	No.
Legislative time limits for procedures	Yes. Time limits exist but are rarely complied with. No sanctions for exceeding these time limits are provided in the legislation.
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in the Czech Republic

Public procurement efficiency	
Decision speed	104 days ⁷ .
Emphasis on price in award criteria	82% of contracts are awarded on the basis of price ⁸ .
Routine screening for PPPs	No
Suspensive effect of appeals against award decisions	Yes

MAIN CHALLENGES AND GOOD PRACTICES

The main challenges and good practices in permitting of TEN-T projects in the Czech Republic are described below:

⁵ Figures provided here are as stated by interviewees from authorities and project promoters. Stakeholders stated that problematic cases can take between seven and 10 years, while highly complex and problematic cases can take up to 12 years.

⁶ As stated by the representative from the rail transport authority.

⁷ Taken from 2014 data in Table 5 from the EU Single Market Scoreboard.

⁸ Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

Main challenges:

- **Lack of proper strategic planning and application of the SEA Directive** - Many land use plans or other strategic documents were previously compiled without SEAs, including those for the transport sector. The new SEAs should be carried out to adapt to the new circumstances. An example of inadequate strategic planning can be seen in the case of the Czech Transport Master Plan (so-called SeStra2). This plan was finalised in 2014 but, despite being subject to an SEA, still 're-confirmed' the network as it was designed decades ago. This highlights the problem with the implementation of some critical investments. Another issue is that less problematic sections are being implemented first, using the routing identified decades ago. This approach is followed by the project promoters instead of using the SEA process as an opportunity to weigh all relevant interests (including environmental) in a holistic way, while it is still possible to find alternatives. This creates a situation where the problematic sections can only be implemented – and, therefore, the project completed - with huge difficulties and by disregarding some interests (inevitably resulting in appeals). Examples of this are the Prague ring road as part of the TEN-T and D8 highway projects.
- **Land acquisition and expropriation** – In the Czech Republic, during land use permitting procedures it can prove very difficult to trace all private owners and it is not uncommon for this process to take several years. Disputes over land acquisition prices were also common, as the price was not set by the legislation. The upcoming legislative amendment of the Act 416/2009 on accelerating the building of transport, water and energy infrastructure (in force from April 2016) partly addresses this problem by setting out the calculation to be used for buying-out of land. This Act has also enabled expropriation under certain circumstances. However, lengthy procedures are still very likely. In addition, homeowners' reluctance to sell is sometimes linked to the high environmental or agricultural value of the land, which itself would be lost by the construction. This can also lead to delays.
- **Outdated EIAs, lack of proper transposition and application of environmental acquis** — A large number of EIAs for transport projects took place under the first EIA Act from 1992 and are now outdated. This also impacts TEN-T projects, as 70% of projects from the current Operational Programme for Transport have EIAs dating from at least 10 years ago. In accordance with the EIA Act of April 2015, all of the old EIAs must be verified, with new environmental assessments undertaken. Exceptions may be made where a project falls under the specific regime of accelerated procedure. Also, a so-called coherence stamp is applicable to ensure compliance with the acquis⁹. The transposition and application of the Water Framework Directive remains problematic (in relation to the assessment of deterioration of water bodies and application of derogations under Article 4(7)), as does application of the Habitats (and Birds) Directive (through the non-completed designation process of Natura 2000 sites), both of which might affect TEN-T projects.
- **Inexperienced building authorities within the individual municipalities** – land use permits for all types of infrastructure are issued by building authorities, all of whom, according to the stakeholders interviewed, have insufficient experience and competence in permitting large infrastructure projects (despite many years' experience with issuing house or garage permits). This lack of knowledge and experience among local authorities often leads to delayed and inefficient processes, such as repetitive requests for documentation.

⁹ Two infringement proceedings for non-conforming transposition of the EIA Directive were opened against the Czech Republic since its accession into the EU; Lack of proper application of the environmental acquis - the Habitats (and Birds) Directives and Water Framework Directive. These infringements raise the serious issue of compliance of TEN-T projects with the environmental acquis which is a pre-condition for their co-financing from EU funds.

- **Lack of a one-stop-shop for TEN-T projects** - A so-called one-stop-shop for transport infrastructure permitting is opposed by all permit issuing authorities. Any such body would also be dependent on changes in legislation to merge some of the permitting processes. The absence of such coordination can lead to duplication of certain procedures/requirements needed for various permits, or even contradictory requirements requested by different authorities, lengthening procedures unnecessarily¹⁰.
- **Shortcomings in the public procurement tender process** - Tenderers often encounter a number of mistakes in the initial tender, particularly when the investor is less experienced in preparing tenders. The subsequent corrections, changes and interpretations create require re-submission of documents, causing delays in the process.

Good practices:

- Both road and rail transport authorities stated that consultations with municipalities for large-scale projects, including TEN-T, are often conducted very early in the process to avoid future problems. Where this has happened, the experience has been positive.
- There is good cross-border cooperation at government level, with several bilateral meetings taking place with neighbouring Member States. In addition, the cross-border commission for water projects is in place to enable smoother permitting of cross-border projects.

¹⁰ As stated by the Czech water authority

GERMANY

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

The German Federal Government is responsible for the construction and maintenance of the German Federal transport routes. Every 10-15 years, the Federal Ministry for Transport and Digital Infrastructure draws up a Federal Transport Route Plan (Bundesverkehrswegeplan - BVWP), a framework programme which sets out all planned transport infrastructure projects and their maintenance needs. The 2003 BVWP is currently live. The Federal Ministry establishes multi-annual plans, each covering a timespan of five years and setting out the corresponding investment needs, with the Federal Parliament deciding annually on the projects to be funded.

Six of the nine TEN-T core network corridors entail construction or maintenance works on German territory. TEN-T projects situated solely on German territory - purely national projects - are subject to the German Basic Law (Grundgesetz - GG), as well as federal law and the laws of the relevant federal state(s). They must undergo a unique, centralised permit procedure called the 'planning approval procedure' before works may start. This planning approval procedure is governed by the Administrative Procedure Act (VwVfG), and centres on the hearing procedure that ensures early and effective public participation, thereby increasing acceptance of the project and avoiding litigation.

The competent authority for the planning approval procedure for rail projects is the Federal Railway Agency, for road projects it is the regional government or the district council, while the Federal Waterways and Navigation Authority have competence for waterborne transport projects. The CA acts as a central administrative body or 'one-stop-shop'.

The key steps of the planning approval procedure are:

- The project developer submits the plan to the hearing authority.
- The plan is made available to the public (for a period of one month), in order to engage with the parties concerned, obtain opinions from the responsible bodies and clarify environmental matters.
- Hearing:
 - Those public authorities whose spheres of competence are affected by the project shall report their opinions within a period not exceeding three months, to be determined by the hearing authority.
- Eventual alteration of the plan (if required).
- Statement of the hearing authority.
- Planning approval decision.
- Eventual judicial review of the planning approval decision.

The average duration of the plan approval procedure for a typical project is about two years, with no fast-track scheme provided for by law. Some procedural steps are subject to legislative time limits.

Costs of the permitting procedure are incurred from fees for expert assessments and, for railway projects, the EBA charges the project developer EUR 10,000, on average, to examine the initial planning documents. To-date, only a few TEN-T projects have been authorised. This is partly due to the recent creation of the Connecting Europe Facility (CEF), a European Fund created to co-finance such projects, and partly due to the particular challenges faced by cross-border transport projects, such as additional requirements for administrative steps and financial resources, which create lengthy procedures. On average, a project is required to complete one single permitting procedure (*Planfeststellungsverfahren*) within a general overall timeframe of two years.

In 2013, the German Ministry of Transport appointed a Construction of Major Projects Reform Commission to identify shortcomings in the system and propose improvements in the delivery of major public sector infrastructure projects. The Reform Commission published their report in 2015,

calling for better project planning and the implementation of a ‘first plan, then build’ concept to ensure that construction does not start before the detailed design of the entire project, to provide information on costs and risks, and to consolidate the schedule for the implementation of the project into a single document¹¹. The Commission also recommended that the provision of funds be made contingent on the identification and evaluation of risks, together with a value-for-money assessment. For public procurement, the report suggested that tenders for construction works should not be granted exclusively on the basis of price but on qualitative assessment criteria, including risk management.

Summary table: Permitting of transport projects in Germany

Procedures	
Number of procedures required for a typical project	One.
Procedures required for typical transport projects	Plan approval decision.
Number of permitting authorities	One ¹² .
Duration of permitting	
Average duration of procedures for a typical project	Two years.
Cost of permitting	
Cost of permitting procedure	Fees for expert assessments and, for railway projects, EBA consulting fees.
Streamlining measures	
One-stop-shop?	Yes ¹³ .
Fast-track scheme?	No.
Legislative time limits for procedures	Some.
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in Germany

Public procurement efficiency	
Decision speed	52 days ¹⁴ .
Emphasis on price in award criteria	4% of procedures are awarded solely on the basis of lowest cost ¹⁵ .
Routine screening for PPPs	No ¹⁶ .
Suspensive effect of appeals against award decisions	Yes, appeals against the tender award decision suspend the implementation of the project, however, an exemption from this general rule can be requested from the remedies body.

¹¹ Report of the Construction of Major Projects Reform Commission, 2016. The Executive Summary is available at: http://www.bmvi.de/SharedDocs/EN/Anlagen/VerkehrUndMobilitaet/major-projects-reform-commission-report-executive-summary.pdf?__blob=publicationFile

¹² District government or regional council.

¹³ Plan approval authority.

¹⁴ Taken from 2014 data in Table 5 from the EU [Single Market Scoreboard](#).

¹⁵ Taken from 2014 data in Table 4 from the EU [Single Market Scoreboard](#).

¹⁶ Taken from Table 3.3 below.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges:

- Balancing the benefits of a fast permitting procedure with the requirements of democracy (such as guarantees for effective public participation and judicial review).
- Balancing a dynamic regulatory framework with the need for detailed planning.
- Stakeholders and the literature agree that public consultation and public opposition to projects appears to create particularly long delays in Germany¹⁷.

Good practices:

- Strong political commitment to effective interconnection of the transport infrastructure and integration with the TEN-T network. For example, in Frankfurt, shareholders of Regionaltangente-West Planungsgesellschaft (RTW), the agency that manages the construction of the railway link in the western area of the city, are all relevant public sector stakeholders, such as the City of Frankfurt and neighboring municipalities¹⁸.
- The strong contribution of the RTW project to decision-making is facilitated by its governance structure, making it an example of good practice in the removal of non-monetary barriers to implementation of the TEN-T network.
- The substantial EUR 60 million investment by the federal state of Bavaria demonstrates good practice in implementing the TEN Priority Project 17, with the aim of improving intermodality between railway and air transport, thereby accelerating travel from Munich airport to the city centre.

¹⁷ EC SWD(2016) 75 final, *Country Report Germany 2016*, European Semester 2016 Country Report, 26 February 2016, p.48.

¹⁸ Thirteen letters of support from counties, municipalities and transport companies were annexed to the response to the call for TEN-T proposals.

HUNGARY

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

TEN-T core network projects are subject to the same rules that govern the general permitting procedures for all transport infrastructure projects or investments. A series of permits are needed for a typical TEN-T core network project (see Table below). If the environmental permit (EIA) is not granted, however, no further permits can be obtained and the project is halted. The 'main' licensing authority must cooperate with the special competent authorities required by law and take their additional requirements and/or decisions into consideration. Each of the relevant permitting procedures follows the rules in Act CXL of 2004 on the General Rules of Administrative Proceedings and Services (Admin. Act), and the main elements of each permitting procedure are usually dealt with by the 'special' or 'specialist' authorities designated by law. The body responsible for overall preparation and implementation of transport projects is the Deputy State Secretariat for Transport Operation Programmes within the Ministry of National Development. The National Infrastructure Development Co. is the main implementation body. All environmental permitting procedures are managed by the county Government Offices Department of Environment and Nature Protection, and the National Environment and Nature Protection Chief Inspectorate.

In addition to the general framework for permitting of transport infrastructure projects or investments, a special regime was introduced by Act LIII of 2006 on the Simplification and Acceleration of the Execution of Investments with National Priority (Priority Projects Act) for investments of national interest. The Priority Projects Act sets out those projects which can be classified as 'investments of national priority' if, inter alia, they are implemented from EU funding, or funding from the national budget, or have a total cost of at least HUF 90 million and establish at least 15 new jobs, or facilitate the realisation of environmental, research and development, education, healthcare and welfare goals. In 2015, new special procedural provisions were inserted into the Priority Projects Act and these are applicable to transport infrastructure projects designated investments of national interest by the Priority Transport Decree (Government Decree No. 345/2012. (XII. 6.) on the assignment of authorities and of administrative procedures of transport infrastructure investments with national importance). The TEN-T core network projects pre-identified through CEF Regulation in Hungary are also included in the Annexes of the Priority Transport Projects Decree, copper-fastening their priority status.

The new provisions of the Priority Projects Act (Article 6/E) require the project promoter to enter into negotiations with all authorities (including special authorities) concerned before initiating the environmental permitting procedure, in order to identify possible routes for the project. These negotiations should include possible obstacles to the permit and identify the aspects to be considered during planning and impact assessments, as well as any other circumstances that may hinder or prevent implementation of the project. The amendment of the Priority Projects Act in 2015 allows for the exclusion of the environmental permit as a prerequisite of the building permit for transport infrastructure projects of national importance. Although the possibility of parallel permitting procedures may accelerate the entire permitting procedure, when the building permit contradicts the environmental permit, it is the building permit which must be modified, leading to repeated procedures.

Summary table: Permitting of transport projects in Hungary

Procedures	
Number of procedures required for a typical project	Between seven and nine.
Procedures required for typical	(Spatial planning permit).

transport projects	(SEA). EIA / Environmental permit. Water permit. Building permit. Rural land permit. Forestry use permit. Archaeological excavation permit. Land acquisition.
Number of permitting authorities	Four or five.
Duration of permitting	
Average duration of procedures for a typical project	Between one and four years.
Cost of permitting	
Cost of permitting procedure	It varies from 1%-10% of the project cost, depending on the complexity of the project.
Streamlining measures	
One-stop-shop?	Yes.
Fast-track scheme?	Yes.
Legislative time limits for procedures	Yes.
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in Hungary

Public procurement efficiency	
Decision speed	69 days ¹⁹ .
Emphasis on price in award criteria	65% of contracts are awarded on the basis of price ²⁰ .
Routine screening for PPPs	No.
Suspensive effect of appeals against award decisions	No, for projects of national significance.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges:

- The ever-changing legal environment creates uncertainty and additional difficulties for authorities and project promoters.
- Despite the ‘one-stop-shop’ and a good level of coordination between authorities, the preparation of TEN-T projects normally requires seven to nine permitting procedures and involves a minimum of four authorities. The capacity of the authorities involved is not always adequate, creating difficulties in complying with the time limits prescribed by law.
- Usually, there are many comments from the public and municipalities during public consultations, lengthening the process and impacting on the overall duration of the project preparation.

¹⁹ Taken from 2014 data in Table 5 from the EU Single Market Scoreboard.

²⁰ Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

- Public procurement procedures are very long, in some cases taking longer than the design of the project and the permitting procedures. It is also very common for the unsuccessful tenderers to appeal the award decision following the tender. Public procurement for cross-border projects adds an additional level of complexity.

Good practices:

- There is a fast-track scheme in place for major projects or projects with a significant public benefit (No. 345/2012. (XII. 6.) Government Decree on the appointment of transport infrastructure investments with national importance).
- The permitting procedures provide adequate tools for speeding-up the timeframe, such as shorter time limits. These provisions do not prevent delays linked to deficiencies in the planning of the project and environmental assessments, however.
- The deadline for administrative expropriation proceedings is 45 days, and this deadline cannot be extended for projects of national importance.
- There is a dedicated department coordinating consultations for different procedures, which can accelerate the overall process.

ITALY

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

In Italy, the authorisation framework for TEN-T projects is highly integrated, with a single permitting procedure encompassing all approvals to be obtained and leading to the final approval of the transport infrastructure project. The project is permitted as a whole, with no division into administrative and technical sections²¹. The number of authorities involved in the procedure depends on the number of authorities affected and varies from project to project. The Ministry of Infrastructure and Economic Development coordinates the procedure and is responsible for consulting with all relevant authorities through the Conference of Services (*Conferenza di Servizi*), a forum gathering all competent authorities (local, regional national and sectoral) involved in the permit granting process. The majority of permitting and public procurement procedures have legal time limits, although, with no sanctions for authorities for delays, the duration of the procedure varies significantly from one project to another.

The main steps in the permitting procedure are:

1. EIA: This includes a non-mandatory scoping, a public consultation and the environmental technical evaluation. This first step also includes spatial planning and the declaration of public interest. The Ministry of Environment is the competent authority for EIAs for TEN-T projects, while the regions and provinces are also responsible for carrying out EIAs for smaller transport projects. The Ministry is supported by the EIA-SEA Technical Commission of the Ministry of Environment, a body composed of 50-60 independent experts appointed by the Ministry, which provides recommendations in view of the final approval. The Conference of Services is convened by the Ministry of Transport and each authority represented can provide an opinion. The whole procedure is intended to last 150 days.
2. Technical analysis: The technical department of the regional government or the Ministry is responsible for consulting with all relevant authorities and issuing the decision on the technical analysis.
3. Land acquisition: During this phase the project promoter negotiates the right to use privately-owned land and agrees compensation with the land owners. If an agreement is not reached, the land can be acquired through the expropriation procedure.

Some projects may benefit from a fast-track scheme (*Legge Obiettivo*) which avoid lengthy procedures. Projects which may avail of this scheme are those included on the 'national strategic list' established by the Interministerial Committee for Economic Planning (*Comitato Interministeriale per la Programmazione Economica*, CIPE). The fast-track scheme is based on a single procedure, which includes a requirement for the Ministry to carry out an EIA on the preliminary project within 60 days. The Conference of Services has a maximum of 90 days to provide an opinion. If they agree, the project is then subject to the final approval of the CIPE within 30 days of the closure of the Conference of Services. Critics question if all environmental impacts could be established and considered at this preliminary project stage. An infringement procedure was opened by the European Commission and subsequently closed when Italy provided guarantees that its EIA procedures were compliant with EU requirements.

Summary table: Permitting of transport projects in Italy

Procedures	
Number of procedures required for	One.

²¹ Roland Berger Strategy Consultants (2011). Permitting procedures for energy infrastructure projects in the EU: evaluation and legal recommendations.

a typical project	Only one permitting procedure (SEA-EIA decision), leading to the final approval of the project, and which includes all opinions/decisions to be obtained.
Procedures required for typical transport projects	<p>The main permitting procedures required for a typical transport project include:</p> <ul style="list-style-type: none"> ▪ Spatial planning. ▪ SEA-EIA (including nature protection and cultural heritage). ▪ Land acquisition. <p>Transport projects, depending on the type of project and the affected areas, may need additional decisions on:</p> <ul style="list-style-type: none"> ▪ Water protection. ▪ Safety. <p>These permits are bundled together in a single authorisation framework.</p>
Number of permitting authorities	<p>Two permitting authorities: the Ministry of Economic Development, Transport and Infrastructure and the Ministry of Environment (for the EIA).</p> <p>The entire permitting procedure is coordinated by the Ministry of Economic Development, Transport and Infrastructure, which is responsible for consulting all other relevant authorities. Approximately 10 authorities are involved in the permitting procedure.</p>
Duration of permitting	
Average duration of procedures for a typical project	On average, a project of over EUR 50 million will take up to 10 years and three months ²² . This refers to a typical infrastructure project covering, but not specific to, transport.
Cost of permitting	
Cost of permitting procedure	No average cost was provided by stakeholders. Costs vary according to the size and characteristics of the individual project.
Streamlining measures	
One-stop-shop?	There is no authority designated as a one-stop-shop, although the Ministry of Economic Development, Transport and Infrastructure acts as a coordinating body.
Fast-track scheme?	Yes, for projects listed on the 'national strategic list'.
Legislative time limits for procedures	There are legislative time limits, although no sanctions for authorities are set out in case of delays. In practice, these time limits are often disregarded.
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in Italy

Public procurement efficiency	
Decision speed	183 days ²³ .

²² ANCE (2012). IL project financing in Italia. Available at <http://www.ance.it/docs/docDownload.aspx?id=9180>

²³ Taken from 2014 data in Table 5 of the EU Single Market Scoreboard.

Emphasis on price in award criteria	45% of contracts were awarded on price ²⁴ .
Routine screening for PPPs	Yes.
Suspensive effect of appeals against award decision	Yes.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges

According to stakeholders, most of the issues arising in transport projects are linked to permitting rather than to public procurement and contracting:

- Time limits are a key issue. In Italy, the legislation sets out specific time limits for permitting procedures, however, the absence of any sanctions for delays makes these time limits difficult to enforce in any meaningful way. These time limits are often set for single steps in the permitting procedure, rather than for the entire procedure. The same problem occurs in procurement procedures, where time limits for award decisions are set out in the tender.
- The number of authorities involved in the permitting procedure can cause delays, given the complexity of coordinating all regional and local authorities and reaching agreement among all involved. It is not unusual for a project to be abandoned because no agreement has been reached. In addition, the complexity of the legal framework and legislative changes can make procedures more difficult for project promoters.
- Some of the authorities involved in the procedure are understaffed and do not have the financial resources to hire qualified staff, which can significantly delay assessments and effective decision-making. Stakeholders have also reported that political appointments in the EIA-SEA Technical Commission can create delays.
- Public opposition to projects can be a source of significant delay in project implementation, according to project promoters.

For public procurement, the anti-mafia legislation is claimed to slow the process, especially for cross-border projects for which the legislation needs to be streamlined.

Suggestions for improvements:

Stakeholders, in particular project promoters, have suggested improvements for permitting and procurement procedures in Italy:

- Introduce simplified procedures for projects that receive funding from the EU, whereby permitting procedures must respect the time limits set in order to avail of the EU funding.
- Introduce earlier consultation on the objectives of the project, along the lines of the model of the French public debate (*débat public*), which takes place after feasibility and opportunity studies have been conducted.
- Improve communication on projects to increase public acceptance and engagement with consultation processes.
- Conduct good archaeological explorations, in order to avoid interruptions due to unforeseen archaeological finds at implementation stage.
- Limit contractual modifications through better planning and anticipation of project requirements, thereby avoiding unnecessary delays and costs.

²⁴ Taken from 2014 data in Table 4 of the EU Single Market Scoreboard.

NETHERLANDS

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

The Ministry of Infrastructure and Environment (I&M) is the national competent authority for infrastructure development in the Netherlands. The Minister of Infrastructure and Environment is responsible for all matters in the area of road infrastructure, shipping, spatial planning (environmental law (*omgevingsrecht*)) and water.

The two main legal acts regulating and streamlining major infrastructure projects are the Infrastructure Act (*Tracewet, IA*); and the Crisis and Recovery Act (*Crisis en herstelwet, CRA*). If a project does not fall within the scope of these two laws, then the default legislation applies. In those situations, the permitting procedure is regulated by the Law on general provisions on the environment (*Wet algemene bepalingen omgevingsrecht*)²⁵ - providing the ‘environmental permit’ (*omgevingsvergunning*).

The **Infrastructure Act**, which entered into force in 1993, oversees the main infrastructure for traffic and transport, and specifies how decisions are to be made on infrastructure projects²⁶. Where the Infrastructure Act applies, there are two possible procedures:

- Comprehensive procedure (for main roads with more than two lanes).
- Regular procedure (for changes to an existing road).

Where the Infrastructure Act applies, the procedure is²⁷:

- Start decision by the Ministry: This covers the area concerned, current spatial issues driving the project, the manner in which the public can be involved and the time frame in which the check list (*verkenning*) should be conducted.
- Checklist (*verkenning*) issued by the Ministry: This includes information on the area concerned, the scope of the problem, spatial issues and solutions. The public and relevant organisations are consulted – for example via public information meetings.
- Preferred option (*voorkeursbeslissing*): On the basis of the checklist report, the Minister (of Environment and Infrastructure) gives his/her position on the ‘preferred option’ for the project. At the same time, the EIA is made available to the public.
- Draft planning procedure order (*ontwerp- tracebesluit*): The preferred decision is further developed in the draft-infrastructure decision, which is available for consultation for a minimum period of six weeks, together with the environmental impact report.
- Planning procedure order (*tracebesluit*): The draft planning procedure order is amended following the public consultation. The Minister of Infrastructure and the Environment then issues the final planning procedure order. This is made available for consultation (*ter inzage*). Only those persons or organisations that provided an opinion on the draft decision can appeal to the Council of State (Raad van State).
- After a decision from the Council of State, the planning procedure order (*tracebesluit*) becomes irreversible.
- Following construction, an evaluation and completion test (evaluatie en opleveringstoets) is conducted.

²⁵ The core of the Wabo (that came into force in October 2010) is that various licences and permits (previously dealt with separately) are incorporated in a single environmental permit. There are 25 different licences and permits, such as the building permit under the Housing Act; environmental permit and notification under the Environmental Management Act; exemptions zoning plans and planning permission under the Spatial Planning Act; permit under the Nature Conservation Act; and exemption under the Flora and Fauna Act. Where it was previously necessary to carry out several permit requirements, this is now been replaced by the (integrated) environment permit.

²⁶ <http://www.infomil.nl/onderwerpen/hinder-gezondheid/geluid/inhoudelijk-dossier/regelgeving/overige-regelgeving/tracewet/>.

²⁷ <https://www.rijkswaterstaat.nl/wegen/wetten-regels-en-vergunningen/wetten-aanleg-en-beheer/tracewet.aspx>.

The **Crisis and Recovery Act (CRA)** entered into force in March 2010. The scope of the CRA covers all major projects: it does not have blanket application to all infrastructure projects in the Netherlands but, rather, to certain *categories* of activities (e.g. construction of a new motorway), to (many) *projects* that have been named explicitly (e.g. windfarm Second Maasvlakte) and to *areas* that have appointed later by council in order (e.g. the redevelopment of the city harbours of Rotterdam)²⁸. Chapter 1 of the CRA contains exceptions to the provisions of the General Administrative Law Act (*Algemene wet bestuursrecht*). These exceptions are intended to reduce the number of appeals against spatial projects, thereby speeding up processes. These key ‘streamlining’ aspects include²⁹:

- Limitation of legal standing

According to Article 4(1) of the CRA, municipalities do not have legal standing in national decisions. The objective of this limitation is to ensure a swift decision-making process.

- Time period for judgment

According to Article 1(6)(4) of the CRA (Section 2.4 on appeal), the Administrative Court must make a ruling within six months.

- Appeal pro forma

An appeal pro forma (an appeal where the grounds are given at a later stage) is not possible in cases that fall under the CRA (Article 1(6)(2e) CRA).

- Re-use of examinations

Examinations (such as on soil, noise) do not need to be redone, i.e. they can be re-used, where a decision nullified by the court is then reinstated by the administrative body (Article 1(10) CRA).

Summary table: Permitting of transport projects in the Netherlands

Procedures	
Number of procedures required for a typical project	One permit (integrating a number of decisions/opinions).
Procedures required for typical transport projects	Planning Procedure Order under the Infrastructure Act or Environmental permit (omgevingsvergunning)
Number of permitting authorities	One coordinating authority appointed, responsible for consulting and coordinating with other authorities.
Duration of permitting	
Average duration of procedures for a typical project	On average, six years from the start of the EIA and the final Routing Decision ³⁰ .
Cost of permitting	
Cost of permitting procedure	For rail projects, the cost of the permitting procedure is around 2% of the total project cost, but can be higher depending on the characteristics of the project.
Streamlining measures	
One-stop-shop?	Yes (although the term one-stop shop is not used, a coordinating authority is appointed per sector (rail/road/water)).
Fast-track scheme?	Yes.
Legislative time limits for procedures	Yes (for specific parts of the procedures).
Public consultation	

²⁸ Hobma, F. Case Study – the Netherlands, p. 24.

²⁹ Progress report of the Minister of Infrastructure and Environment (2014-2015) on the CRA, p. 75.

³⁰ Elverding Committee (2008) ‘Sneller en beter’ Advisory report:

<https://www.rijksoverheid.nl/documenten/rapporten/2008/04/21/het-advies-van-de-commissie-versnelling-besluitvorming-infrastructurele-projecten>

Effectiveness of public consultation procedures	High.
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Summary table: Public procurement in the Netherlands

Public procurement efficiency	
Decision speed	64 ³¹ .
Emphasis on price in award criteria	10% given to price in the award criteria ³² .
Routine screening for PPPs	Yes (depending on the type of project).
Suspensive effect of appeals against award decision	Yes.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges:

■ Procurement procedure

An evaluation of the Procurement Act 2012³³ (required by the Act itself) concluded that there was room for improvement in terms of the application of certain provisions of the law, although the content of the law itself needed no change. The application of the criterion ‘most economically advantageous tender’ (*economisch meest voordelige inschrijving*) and the inclusion of social conditions in procurement were particularly noted as areas that should be improved.

Good practices:

■ Coordination and bundling of permits

Recent legislation has aimed to streamline the permitting procedures by integrating all permits into one procedure and appointing one coordinating authority. Major infrastructure projects that took place before these laws came into force had to obtain several permits and did not benefit from any streamlining and coordination processes.

■ Intensive and early stakeholder consultation

A number of consultations with the public and other stakeholders, such as local authorities and municipalities, take place before the start of the permitting procedure. This focus on early consultation gives the project developer the opportunity to demonstrate the need for the project, increasing its acceptance by the public and local authorities³⁴.

■ Time limits for judicial decisions reduced to six months (Article 1(6)(4) CRA)

A limitation for judicial decisions to six months (Article 1(6)(4) CRA) is useful in terms of planning, as well as creating legal certainty³⁵.

■ PPP

Public awareness and acceptance of PPP projects has increased over the past years. The current political discussion focuses on stimulating and facilitating PPP rather than questioning its legitimacy³⁶.

³¹ Taken from 2014 data in Table 5 of the EU [Single Market Scoreboard](#).

³² Taken from 2014 data in Table 4 of the EU [Single Market Scoreboard](#).

³³ Ministry of Economic Affairs, *Evaluatieonderzoek naar de Aanbestedingswet*, 2012: <https://www.rijksoverheid.nl/onderwerpen/aanbesteden/inhoud/aanbestedingsregels/evaluatie-aanbestedingswet-2012>

³⁴ Roland Berger, Permitting procedures for energy infrastructure projects in the EU: evaluation and legal recommendations, European Commission Directorate-General for Energy, Berlin/Brussels, May 31, 2011, Annex 13 on the Netherlands, p. 141.

³⁵ Ibid.

- Treaty to establish agreements in transboundary project

For the Gent-Terneuzen project, the Dutch Minister of Infrastructure and Environment and the Flemish Minister of Mobility and Public Works signed the ‘Treaty for the Establishment of the New Lock’. This treaty covers the political, legal and financial agreements of the project. More specifically, it covers the establishment, infrastructural management and maintenance of the lock, the procedures for any possible adjustments to the canal, the applicable law, and consultation and dispute settlement. This also includes provisions on the procurement procedure. The treaty makes the project less vulnerable to political change and ensures continuity in the development of the project.

- Early contractor involvement³⁷

A recent study (2012) concluded that conducting the procurement procedure in parallel with the permitting procedure added value in terms of time gains, improved project control and more innovative solutions. Early contractor involvement was not identified in any of the projects studied for this report.

³⁶ CMS, PPP in Europe (2010).

³⁷ Lenferink, S., Arts, J., Tillema, T., Van Valkenburg, M., and Nijsten, R. (2012). Early contractor involvement in Dutch infrastructure development: Initial experiences with parallel procedures for planning and procurement. *International Journal of Public Procurement*, 12(1), 1–42.

POLAND

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

The general legislative framework for authorisation of infrastructure investment projects in Poland is regulated by the Spatial Development Law, Construction Law, EIA law and Code of Administrative Procedure. In principle, the permitting procedure can be two-fold depending on whether or not there is a valid land use plan. Where there is no land use plan, the procedure consists of three stages: a decision on environmental conditions (for projects which fall under the EIA legislation), a location decision and a construction permit. Where there is a land use plan in place, the location decision is not required.

Special legislation was adopted in 2003, streamlining permitting procedures and reducing the number of authorisations needed for certain investments in the road and railway sectors. The procedure for roads has two steps: 1) obtaining the decision on environmental conditions and 2) obtaining the decision on implementation of the road project (ZRID, *zezwoleńie na realizację inwestycji drogowej*). For railways, there are three main steps: 1) obtaining the decision on environmental conditions, 2) obtaining the decision on location of the railway project and 3) obtaining a construction permit. In addition, a water permit may be needed for investments with significant impact on water, or which are implemented in flood-prone areas. The streamlining of investments in the road and railway sectors stems largely from the expropriation implications related to decisions on the location of road and rail projects.

Land and real estate covered by the decision of the Voivode on implementation of road or railway projects automatically become the property of the State Treasury. There is no one-stop-shop in Poland which could further facilitate the permitting procedures. The environmental decision is a standalone one which remains valid for up to 10 years and provides for access to justice. The timeframe between submission of a request to a decision can be up to one month, or two months in more complicated cases (Article 35 of the Code of Administrative Procedure). The procedure is extended in cases when an opinion is required from other authorities, or if additional documentation is requested from project promoters. Stakeholders consulted for this study indicated that the procedure of obtaining environmental decisions for road and railway infrastructure projects can often take more than a year³⁸.

The main authorities involved for road and railway investments are regional authorities (Voivode and RDOŚ), while for waterborne projects starosta and municipal authorities are involved. Some water-related projects do not need a construction permit and projects can be implemented under the notification procedure (tacit agreement). TEN-T core network projects are unlikely to fall into this category, however. Two state-owned project promoters (GDDKiA and PKP PLK) manage large contracts implementing strategic public investments in the road and rail sector, respectively.

Despite the improvements to roads and railways, project preparation procedures in these sectors (including procurement) take on average about two-and-a half years (while other investments, including waterborne sector TEN-T projects, can take about four years)³⁹.

³⁸ Information obtained from the representatives of GDDKiA and PLK.

³⁹ Information about road and rail investments was obtained from the stakeholders (GDDKiA and PLK, respectively). The interviewees indicated that for road and railway projects, the EIA procedure, together with preparation of the EIA report, may take over a year, especially in cases where additional documentation is requested and the clock is stopped for the administrative procedure. ZRID (the decision on location of the railway project) can be obtained quickly, in principle within 30 days (plus two additional months for possible appeals). Procurement procedures take typically about a year (according to the interviewed representative of GDDKiA, the usual schedule is set at 12 months plus two months for eventual appeals). For investments in the waterborne sector, the permitting procedures may take longer, as this sector is covered by the general procedures. In this case, land acquisition may turn out to be a bottleneck. According to the Roland Berger study on permitting

Summary table: Permitting of transport projects in Poland

Procedures	
Number of procedures required for a typical project	Roads: Two to three. Railways: Three to four. Other modes: Up to seven ⁴⁰ .
Procedures required for typical transport projects	Roads: Environmental decision; Decision on implementation of road project; Water permit when water bodies are affected, if relevant. Railways: Environmental decision; Decision on location of railway project; Construction permit; Water permit, if relevant. Infrastructure projects in sectors other than roads and railways: Varies according to project type and location (e.g. a decision on changing the designation of agricultural or forestry land, or a permit for removing trees, or expropriation decisions may not necessarily be needed for each project).
Number of permitting authorities	Two to three (RDOŚ and a Voivode, plus a Marshall of the Voivodeship or starosta of Powiat for water permits), but this can reach 10 when opinion-giving authorities are included.
Duration of permitting	
Average duration of procedures for a typical project	<p><u>For the road sector:</u></p> <p>12-14 months for the environmental decision (including preparation of the EIA report and public consultations)⁴¹. Maximum three months for the decision on implementation of a road project. Two months for the water permit. <i>Total about one-and-a-half years.</i></p> <p><u>For the railway sector:</u></p> <p>9-12 months for the environmental decision (including preparation of the EIA report and public consultations; Six to eight months for decisions where no EIA report is required). Three months for the location decision. Two months for the water permit. Two months for the construction permit. <i>Total about one-and-a-half years.</i></p> <p><u>For other sectors:</u></p> <p>Up to two years for the environmental decision (including</p>

procedures, the average duration of these procedures in Poland (for those energy projects which also fall under regular procedures) equals approximately four years.

⁴⁰ For other sectors (e.g. waterborne), the following permits/decisions are typically required: (1) decision on changing the designation of agricultural and forestry land (either in the form of a change in the municipal spatial management plan or in the form of a decision on building conditions issued by local authorities); (2) decision excluding land from agricultural or forestry production (if the project crosses such land); (3) location decision for an investment of public interest must be obtained in case of lack of a municipal plan of spatial management; (4) construction permit; (5) water permit; (6) permit to remove trees/shrubs; (7) expropriation decisions. Furthermore, additional opinions of various authorities such as port authorities or national park authorities may be required, depending on the character and location of the investment.

⁴¹ The administrative procedure which leads to issuing of the environmental permit is set out in the legislation at a duration of one month and, in particularly difficult cases, two months. The procedure is suspended for the time when the project promoter is requested to submit specific documentation, in particular the EIA report and public consultations. The EIA decision can be obtained in four to six months. However, if the EIA procedure is lengthy, it is often because the developer started to prepare the EIA report after applying for the environmental decision, or because the procedure is suspended by the authorities due to requests for further information from the applicant.

	<p>preparation of the EIA report and public consultations).</p> <p>Three months for the location decision.</p> <p>Two months for the water permit.</p> <p>Two months for the construction permit.</p> <p>Other decisions (specifically, expropriation) may take another two or three months but litigation may increase this duration.</p> <p><i>Total about three-four years.</i></p> <p>In addition, procurement procedures last about one year.</p>
Cost of permitting	
Cost of permitting procedure	<p>The managers of roads and railways, being state-owned units, are exempt from the State Treasury fees that apply to private entities during permitting procedures.</p> <p>EIA procedure, including preparation of an EIA report, permitting and compensatory measures may imply a cost of 7-15% of overall investment spend⁴².</p>
Streamlining measures	
One-stop-shop?	No (except for the EIA procedure, which integrates all environmental aspects into a single environmental decision).
Fast-track scheme?	Yes – for road and railway projects.
Legislative time limits for procedures	Yes, but procedures may be suspended for procedural reasons (e.g. if an opinion is sought from a consulted authority, or if the project promoter is asked to provide additional evidence).
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in Poland

Public procurement efficiency	
Decision speed	43 days ⁴³ .
Emphasis on price in award criteria	83% ⁴⁴ of contracts are awarded on the basis of price.
Routine screening for PPPs	No, currently no PPP planned for TEN-T projects.
Suspensive effect of appeals against award decisions	Yes.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges

Some challenges in project implementation have been identified:

- Project promoters claim that limited financial resources allow for the implementation of projects fulfilling only basic needs, while more comprehensive and innovative investments have to be postponed.
- Project promoters also point to insufficient human resources in design services in Poland,

⁴² PWC, 'Construction of roads in Poland' (Budowa dróg w Polsce), http://pzpb.com.pl/newpzpb/wp-content/uploads/Budow_drog_w_Polsce_Raport_pwc.pdf

⁴³ Taken from 2014 data in Table 5 from the EU Single Market Scoreboard.

⁴⁴ Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

especially for railways, as well as insufficient expertise on EU certification.

- While contractors' proposals are allowed to indicate other qualified firms who may subcontract certain parts of the contract, these firms are not always subsequently used, and no mechanism exists to ensure their use.
- Late integration of environmental aspects in the preparation of projects may lead to problems and delays when the preparation of the projects is already quite advanced.
- There is a lack of consistency among regional institutions (including RDOŚ and Voivodeship administration) in interpreting the legal requirements. Differences in approach can create delays.
- For other sectors' investments, expropriation procedures are the main source of delays. Appeals against decisions on contract awards can also cause delays, especially if filed with the court (second instance).
- The legal environment in Poland is subject to frequent changes, with project promoters particularly pointing to the Act on Public Procurement as the act most frequently amended. They also highlight frequent changes in technical requirements and standards, including standards set in EU legislation.

Good practices

- Unnecessary delays are avoided, in particular in relation to expropriation of land through the adoption of special legislation for the road and railway sectors. The possibility to assign the status of immediate execution for road and railway investments, as well as the opportunity to increase the amount of compensation for the owners of real estate who make them available within 30 days of receiving the final decision on implementation of the investments, are particularly effective.
- Integration of environmental aspects from the beginning of preparation of projects, in particular for projects with an expected impact on Natura 2000 sites.
- Project promoters consider long-term sectoral strategies useful in providing stability where there is a lack of legal certainty. They also often prepare internal procedures and guidelines which help to alleviate the problem to a certain extent.

ROMANIA

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

There is no one-stop-shop for TEN-T projects in Romania. Instead, responsibilities are shared between the Ministry of Transportation, the Ministry of European Funds and other public authorities. Several authorities are involved in the approval of a typical transport project: the Ministry of Transportation, the environmental authorities at national or local level, Forestry/Agriculture Directorates, county council(s), and one or several municipalities. This number can be increased if there are specific conditions for that project (e.g. safety, special location, etc.).

In the transport infrastructure sector, project promoters are usually public organisations, such as Romanian Railways, National Company for Highways and National Roads. These are granted funds, either of national or EU origin, to design and execute projects. Throughout the project, much of the design and execution is subcontracted.

The legal permitting framework for TEN-T projects requires several permits, depending on the specifics of the project. The construction permit is the final permit granted in the permitting process, and is granted only after all other permits have previously been granted by the competent institutions.

The following procedures are mandatory for the vast majority of TEN-T projects:

- EIA procedure: Environmental agreement is required for the development of projects with a significant impact on the environment.
- Expropriation procedure: This is necessary whenever project promoters do not own the land on which the infrastructure works are planned.
- Local administration endorsement: Where the county council is the competent authority to issue the building permit and the urbanism certificate, the mayor of the affected city/commune must approve the project.
- Utilities endorsements: The approval of the utilities' suppliers (water, sewer, electricity, gas, heating, telecommunications, sanitation, urban transportation, etc.) must be obtained if a TEN-T project might affect their infrastructure.
- Agriculture and/or forestry endorsements: These are necessary if land is to be removed from the agriculture/forestry circuit and re-zoned for another purpose (road or railway, etc.).
- Construction authorisation: The building permit shall be issued after the project promoter has submitted a standard application accompanied by (i) the urbanism certificate; (ii) proof of securing the necessary land; (iii) the permits, agreements and opinion/administrative document of the competent authority for environmental protection, the technical reports, the expert studies and other documents required under the urbanism certificate; and (iv) the proof of payment of fees for issuing the building permit.
- Public procurement: Tendering occurs each time the project promoter wishes to procure goods, services and works in the implementation of the TEN-T projects. This includes subcontracting design services and construction works.

Permits for water protection, nature protection, spatial planning and cultural heritage are often required, and, depending on the specific project, other permits may also apply.

National law provides for the concept of 'project of national interest', which corresponds to the highest national significance possible and applies to almost all TEN-T projects. Projects of national interest benefit from a shortened expropriation procedure to secure a right over the land, and are also exempt from some administrative fees. The shortened terms/waived fees are not systematically applied in practice and do not, therefore, speed up the entire permitting process. The time needed to secure all permits for transport infrastructure projects is at least two years but, in practice, most projects need a

longer period of time to finalise the permitting stage.

A new legislative document (Emergency Government Ordinance no. 7/2016) also attempts to shorten the time allocated to permitting. The law applies to all large-scale transport infrastructure projects and aims to speed up the procedures on land planning, land expropriation, removal of land from the agriculture/forestry circuit, registration of expropriated land in the Land Registry, as well as to prolong the validity of all permits until the end of the works.

Summary table: Permitting transport projects in Romania

Procedures	
Number of procedures required for a typical project	Six or seven, but this can increase depending on the project.
Procedures required for typical transport projects	The following permits are mandatory for the vast majority of TEN-T projects: EIA permit, expropriation decision, construction authorisation, local administration endorsement, utilities endorsements, agriculture and/or forestry endorsements. Permits on water protection, nature protection, spatial planning and cultural heritage often apply. Depending on the specific project, other permits may also apply.
Number of permitting authorities	Six or seven, but this can increase depending on the specific project.
Duration of permitting	
Average duration of procedures for a typical project	Two to five years.
Cost of permitting	
Cost of permitting procedure	EUR 10,000 – 15,000 (permitting fees excluding costs of studies, assessments and compensatory measures for the project)
Streamlining measures	
One-stop-shop?	No.
Fast-track scheme?	Yes, partly.
Legislative time limits for procedures	Some.
Public consultation	
Effectiveness of public consultation procedures	Moderate.

Summary table: Public procurement in Romania

Public procurement efficiency	
Decision speed	51 days ⁴⁵ .
Emphasis on price in award criteria	90% weighting on price in the award criteria ⁴⁶ .
Routine screening for PPPs	No.
Suspensive effect of appeals against award decision	No, launching an appeal does not automatically suspend the procurement procedure. Nevertheless, because in the majority of cases continuing the procedure would undermine the legal efficiency of an appeal, the appellant can also request the

⁴⁵ Taken from 2014 data in Table 5 from the EU Single Market Scoreboard.

⁴⁶ Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges

- Several of the authorities interviewed stated that many of the difficulties arising in the preparation and implementation of transport projects derive from the publicly declared objective to shorten the time dedicated to implementing such projects. This objective is an outcome of the public and political pressure to realise large infrastructure projects. In the absence of well-thought out shortening procedures, this haste has negative impacts, particularly where a plan was initially insufficiently documented and needs to be changed frequently. If the changes are significant, this requires the permitting process to be re-started. Project promoters have identified several issues that hinder the efficiency of permitting:
 - Difficulties in understanding and putting into practice the principles laid down in complex legislation (especially related to environmental permitting and public procurement).
 - Complexity of the background documentation submitted for permitting might represent an obstacle, as project promoters often incorrectly view this as a mere formality.
 - Lack of standard documentation for permitting.
 - Lack of available prior studies and data when drafting background documentation for permitting procedures presents a significant challenge.
 - Confusion about the background documents in the preparation stage - both a feasibility study and technical project plan are required as separate documents during project preparation. As expropriations are made based on the feasibility study, additional expropriations may be necessary where the content of the technical plan differs from the feasibility study.
 - Delays in the expropriations procedure, in particular, serious difficulties in identifying land owners.
 - Time limits for issuing permits are not always respected, despite Law no. 255/2010 reducing the time limits for a number of permitting procedures.
- In the public procurement process:
 - The main delays occur as a result of appeals against the award decision of the contracting authority, or appeals against the terms of reference. This can block the public procurement procedure for up to one year.
 - Preparation of the award documentation can also be lengthy and time consuming, especially, if it involves external collaboration, including tendering for consultancy services.
 - Evaluation of received offers can be very lengthy, as the procedures require submission of numerous and complex documents by the tenderers, the evaluation of which is time-consuming.
 - A very rigid approach towards the terms of reference initially defined in the tender documentation leads to later difficulties in contract implementation.
- Additional delays stem from:
 - There is no updated map of utilities in Romania, causing delays in receiving the necessary permits from the utilities companies. Further delays may be caused by the discovery of cables, pipelines etc. in unexpected places during construction works.
 - Neither a cadastre nor a GIS exists for the whole territory of Romania.
- Lack of resources, especially human resources, both at the level of the project promoters and the permitting authorities, hampers the preparation of TEN-T projects.
- Cooperation between project promoters and the Romanian authority dealing with management of

EU funds is not effective. The main issues raised were the lack of clear guidance for beneficiaries, procedures published with delays, rigid vision and lack of engagement with the issues faced by promoters. Given that the vast majority of TEN-T projects are EU-funded, uncoordinated communication between the Ministry of European Funds and the Transport Management Authority creates delays which then impact on the permitting procedures. This is especially relevant in view of the decision-making power of the Management Authority, making it impossible for project promoters to act without their prior agreement in many instances. Delays in obtaining those agreements occur regularly and are reflected in the low standard of the project preparation / implementation.

Good practices

- Law no. 255/2010 regarding expropriation for public utility causes, necessary to reach objectives of national, county and local interest, can be considered a good practice, as it simplified expropriations procedures, shortened some permitting timelines, and waived some of the permitting costs. It also imposed penalties on those public authorities which delay the permitting process unnecessarily.
- A new fast-track scheme (Emergency Government Ordinance no. 7/2016) which attempts to shorten the time allocated to permitting, and which waives the related permitting fees, was adopted in March 2016.

SPAIN

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

The general authorisation framework for TEN-T projects has its basis in the Spanish Constitution (CE). Article 149(1) CE refers to those policies for which the Central State has exclusive competence, including the general framework for the planning of economic activities (149(1)(13)), harbours and airports of general interest (149(1)(20)), rail and terrestrial transport infrastructure when it crosses the territory of two or more Autonomous Regions (149(1)(21)), public works of general interest and those that affect more than one Autonomous Region (149(1)(24)), and the basic legal framework of environmental protection.

A number of laws have been adopted that regulate all modes of transport, whether terrestrial, aerial or maritime. The framework includes the following laws and regulations: Terrestrial Transport Act (Law 16/1987); Road Act (Law 37/2015); Rail Act (Law 38/2015); Maritime Transport Act (RDL 2/2011); and the Air Navigation Act (Law 48/1960), as well as their associated regulations and ordinances. All of these Acts share a fundamental feature, in that for transportation works of general interest, the State has exclusive competence in the general framework and execution of those projects with a national or international dimension (which go beyond the territory of one Autonomous Region). Spain's legal framework for transport infrastructure does not distinguish between core and global projects (as defined in Regulation 1315/2013) and other projects. That means that it is possible for regional authorities to be competent for some of those larger-scale projects whenever they fall entirely within their territory.

Another key piece of legislation that applies to all TEN-T projects is Law 21/2013, the EIA Act, which regulates both SEA and EIA and to which all TEN-T projects must be subjected. This EIA Act takes also into consideration other specific environmental assessments, e.g. the Birds and Habitats Directives or the Water Framework Directive. Finally, RD 3/2011, the Public Procurement Act, regulates the contractual relationship between public authorities acting as project promoters and private participants undertaking the construction works.

From a policy perspective, the Infrastructure, Transport and Housing Plan (PITVI) is the main instrument laying down the policy framework for the development of TEN-T projects. The current PITVI will remain in operation until 2024.

Summary table: Permitting of transport projects in Spain

Procedures	
Number of procedures required for a typical project	Three.
Procedures required for typical transport projects	(1) Environmental Impact Declaration. (2) Declaration of Public Interest. (3) Construction permit for the specific transport project. (4) Public procurement procedures to grant the construction of the project to private developers.
Number of permitting authorities	MAGRAMA, Ministry of Public Works (and authorities and public companies under their remit). In addition, within the SEA/EIA procedures, Autonomous Regions and local authorities are competent to issue SEA/EIA statements.
Duration of permitting	
Average duration of procedures for a typical project	No information provided by stakeholders interviewed.

Cost of permitting	
Cost of permitting procedure	Approximately 4% of the total project cost.
Streamlining measures	
One-stop-shop?	Yes.
Fast-track scheme?	Yes.
Legislative time limits for procedures	Yes.
Public consultation	
Effectiveness of public consultation procedures	High.

Summary table: Public procurement in Spain

Public procurement efficiency	
Decision speed	107 days ⁴⁷ .
Emphasis on price in award criteria	24% weighting on price in the award criteria ⁴⁸ .
Routine screening for PPPs	Yes.
Suspensive effect of appeals against award decision	Yes.

MAIN CHALLENGES AND GOOD PRACTICES

Main Challenges

- Spain has seen an enormous number of transportation projects built in recent years, suggesting that **unnecessary delays** are not an issue. If anything, there is some evidence of excessive speed in the awarding procedure, implying a lack of transparency and competition in the awarding procedures.
- **Possible additional costs** stem from the project design phase and the feasibility studies conducted by the project promoter. As they are often carried out very rapidly, they frequently need to be modified ex-post, raising project costs above those budgeted in the contract.
- The complexity of the legal and administrative framework effectively dissuades foreign participants from becoming involved in the public procurement procedure. Increased time periods for public procurement, in particular for requests for technical criteria for participation, have been proposed in order to facilitate participation of foreign investors in public procurement procedures.
- Legal uncertainty may have an impact on the public procurement procedure, since all of the other stages in the development of the project are controlled by public authorities. Legal uncertainty stems from:
 - The possibility that the competent authority may modify the project ex-post, thereby changing the economic viability of the project and transferring the risk to the builder.
 - The infrequent use of the ‘competitive dialogue’, despite its potential advantages for complex projects. The complexity has to do with the following issues: (i) high degree of discretion granted to the competent authority in selecting the participants; (ii) complexity inherent in the project makes the ‘dialogue’ complex; (iii) the costs carried by the participant in this dialogue can be substantial and, unless compensated by the competent authority, represent a disincentive to engage; (iv) different solutions to complex projects are proposed by different participants, which may lead the competent

⁴⁷ Taken from 2014 data in Table 5 from the EU Single Market Scoreboard.

⁴⁸ Taken from 2014 data in Table 4 from the EU Single Market Scoreboard.

authority to choose a mix of solutions, which the participants must then implement. This is another disincentive for participants to work for the ‘best’ solution, as it does not necessarily increase their chances of securing the contract.

- Uncertainty related to project finance, particularly in the context of a financial and economic crisis, coupled with over-capacity in the transport system.
- Other risks in the implementation of the project.

Other, more general challenges include:

- A transport system, which is heavily weighted towards road transport.
- Lack of sufficient intermodality.
- Insufficient coordination between competent authorities in relation to transport logistics.
- Large body of legislation on the transport of goods, but far less on transport logistics.
- Administrative practices that are too rigid for all modes of transport and do not sufficiently promote private initiative.

Good practices

- The PITVI has sought to change the approach of transport infrastructure policy and law, moving away from the promotion of new infrastructure and more towards the promotion of effective and efficient use and intermodality. This has meant focusing on promoting agreements to connect railway infrastructure to ports, and promoting the adoption of legislation on logistics, including the creation of a logistics unit in the Ministry of Public Works and Transports (*Ministerio de Fomento*), as well as a Logistics Forum where public authorities meet private operators to adapt the legal framework to the needs and realities of the logistics sector.
- In the framework of the European Semester process, the EU has recommended that Spain introduce mechanisms to ensure better strategic planning of transport infrastructure. Following this recommendation, an advisory Council for infrastructure (a body issuing non-binding opinions on major future infrastructure projects) was established in July 2015. While this mechanism could be stronger, it nonetheless represents a step in the right direction.
- From a purely legal perspective, sectoral legislation for all modes of transport fully references the EIA Act, and project approval procedures are fully coordinated with the EIA.

UNITED KINGDOM

AUTHORISATION FRAMEWORK FOR TEN-T PROJECTS

Authorisation for major transport projects in the UK centres on spatial planning, with Development Consent Orders – a form of secondary legislation – providing the authorisation for development to commence. Although there are differences across the UK, due to devolution of responsibilities to national parliaments / assemblies, major transport projects place an emphasis on streamlining processes, with the potential to include several consents within the Order permitting development. These ‘bundled’ consents can include associated development (consent for subordinate developments required as part of the overall development), compulsory acquisition of private property, and more site-specific consents, such as changes to hedgerows and trees.

Project promoters for large projects tend to be public or semi-public authorities and are thus subject to public procurement legislation. For major transport projects, the competent authority in England and Wales is usually the Department of Transport or Devolved Ministers. In Scotland, national developments are subject to approval by the Scottish Parliament, with Scottish Ministers approve major developments. The Department of Infrastructure is the planning authority for infrastructure developments in Northern Ireland.

A key feature of the system is its front-loading, with the majority of the promoter’s duties must be completed before the application for planning permission, as they are considered by the competent authority in the planning application decision. Once the application has been made, the promoter’s involvement in the planning decision should be only to clarify information and provide further evidence, if required. Although the promoter is encouraged to consult widely in the development of the project plan and application documents, it is the competent authority that is required to carry out consultation with various statutory bodies ahead of the planning decision. In addition to consultation responses, national and local development plans guide the competent authority in its decision-making process.

Aside from spatial planning, most large transport projects will require the development of an Environmental Statement, which assesses the environmental implications of a transport project. An EIA can potentially take several years to complete. An Environmental Statement, if required, should accompany the planning application. Where the project is likely to affect the status of water bodies, the requirements of the Water Framework Directive must also be taken into account in the permitting procedure.

For project with potential impacts on a site protected by conservation legislation, a Habitats Regulation Assessment (HRA) must be completed. Again, this should be done ahead of the planning application and is a lengthy process, although much of the information needed overlaps with that for the EIA. Projects that significantly impact protected sites can only be granted planning permission if granted by the Secretary of State for Transport and only then if there are imperative reasons of overriding public interest.

Other additional procedures not included within the Development Consent Order include licensing for European Protected Species under the Habitats Directive, which is dealt with only after the development consent has been granted, the development of a flood risk report and hazardous substances consent.

Summary table: Permitting of transport projects in the UK

Procedures	
Number of procedures required for a typical project	One ⁴⁹ .
Procedures required for typical transport projects	Development Consent Order (or equivalent), which includes a number of other permits as prerequisites.
Number of permitting authorities	One ⁵⁰ .
Duration of permitting	
Average duration of procedures for a typical project	Two years, not including significant pre-application period which can be between seven months and four-and-a-half years.
Cost of permitting	
Cost of permitting procedure	No information available.
Streamlining measures	
One-stop-shop?	Yes, except in Scotland.
Fast-track scheme?	Yes, for nationally significant infrastructure projects (or equivalent).
Legislative time limits for procedures	Yes.
Public consultation	
Effectiveness of public consultation procedures	High.

Summary table: Public procurement

Public procurement efficiency	
Decision speed	84 days (2014) ⁵¹ .
Emphasis on price in award criteria	7% (2014) ⁵² .
Routine screening for PPPs	No.
Suspensive effect of appeals against award decision	Yes.

MAIN CHALLENGES AND GOOD PRACTICES

Main challenges

The main challenges identified relate to the time needed for pre-application procedures, the delays that can result from the public consultation process, and the costs associated with employing external experts to carry out some of the aspects of the planning approval process.

Interviewees pointed to the burdensome nature of EIA and HRA in terms of the time required to fulfill legislative requirements. The potential for EIA to take several years means that projects face a

⁴⁹ Protected species licences must be obtained after the development consent is granted. Where protected species licences are required, more than one permit is needed.

⁵⁰ Protected species licences will be delivered by Natural England, so two permitting authorities will be involved.

⁵¹ Taken from data in the EU [Single Market Scoreboard](#)

⁵² Ibid.

substantial amount of time in pre-application planning, irrespective of the public benefit that may result. Despite this time lag, EIA and HRA are generally built into the project timelines of the promoter, reducing their impact on transport projects.

Substantial delays are noted in relation to public consultation, where significant objections are often lodged by the public, either in relation to the project itself or, more regularly, in relation to compulsory acquisition. Where objections cannot be resolved, a public inquiry may be held by the competent authority to assess the severity of the complaints, a process which can significantly delay the project. Although interviewees cited examples where developments were 'held to ransom' by land owners objecting to the valuation of land subject to compulsory purchase, it was acknowledged that developers should work with stakeholders with legitimate grievances, where, for example, the benefits of development would not be felt by the affected parties.

Interviewees acknowledged the need to employ external services to complete several of the requirements faced by promoters, for example in relation to EIA and the development of draft Development Consent Orders. Although this can be costly, it is unavoidable, given the technical nature of some tasks.

Good practices

Good practices identified include the planning of infrastructure projects at national level, the streamlining of processes, the one-stop shop, public consultation and public procurement.

Investments in the areas of transport, energy, flood defences, communications, science and research, waste, water, housing, and social infrastructure, are planned through the National Infrastructure Delivery Plan 2016-2021 (NIDP). The NIDP covers infrastructure across the UK that is not devolved to the Northern Ireland Assembly, Scottish Parliament or Welsh Assembly. It contains the national infrastructure pipeline, which provides an overview of the planned investments, and gives an indication of likely implementation timeframes. The pipeline aims to provide greater visibility and certainty to promoters, as well as greater transparency with respect to the maintenance and improvement of the infrastructure network.

Within England and Wales, specific legislation provides the basis for simplifying the planning application for major infrastructural developments, including major transport projects that reach certain size thresholds. For these projects, a large number of consents can be 'bundled' within the development Order, avoiding the need for separate procedures. These consents include compulsory land acquisition, where private land can be bought for market rates by the promoter, as well as associated development rights, which are subordinate developments, such as minor access road development. By bundling consents, the need for separate public consultation on each issue is avoided. For large projects that do not meet the thresholds for nationally important developments, there are other types of development Orders that likewise permit the bundling of some, if not all, of the same consents.

For all planning applications, there is generally a key focal point that, while not a coordinating body, provides pre-application guidance. In the UK this focal point is centred on spatial planning, on which development approval depends. Although separate consultation with key bodies is encouraged at the pre-application stage, the focal point can facilitate meetings and is the first point of call for promoters. Where consents can be bundled within a Development Consent Order, as in the case with NSIPs, there is a one-stop shop (Planning Inspectorate) for the project promoter that handles most, if not all, of the development approval process.

There are clear processes for public involvement, both at the pre-application stage of spatial planning and during examination of the planning application. Although highlighted as a challenge, the fact that grievances are taken seriously by the competent authority demonstrates the importance given to public opinion.

Finally, public procurement processes are well understood, both by project promoters and infrastructure development companies and are not believed to contribute to delays, costs or uncertainty. Guidance on procurement is widely available and institutional capacity is considered high, particularly in relation to PPPs, with which the UK has significant experience.