Draft Law

of the Federal Government

Draft Law on the Digitisation of the Execution of Real Estate Contracts, the Judicial Approval of Notarial Transactions and Notaries' Tax Reports

A. Problem and objective

More than one million purchase contracts for developed and undeveloped land and other types of land transfers (real estate contracts) are recorded each year in the Federal Republic of Germany. The execution of a notarised real estate contract requires the exchange of information and documents between notaries, courts and various administrative bodies. In many cases, official certificates must be on hand as a prerequisite for entering the acquiring party in the land register.

While notaries sometimes already communicate with the land registry offices by electronic means, communication when executing a real estate contract is carried out almost exclusively in paper form and by post. This procedure delays the execution of real estate contracts and generates a significant additional burden by requiring identical data to be collected several times: firstly by notaries when preparing the draft contract and secondly by the administrative bodies involved, which collect the data from the applications and notifications and documents sent in order to process them further. In addition, the paper-based exchange of execution documents in electronic legal communications with land registry offices results in media discontinuity: notaries have to digitise the documents sent by the courts and authorities so that they can be used in the land registry process. Finally, given the number of real estate contracts that are concluded each year, a paper-based exchange of information and certificates is also resource-intensive.

Outside the scope of application of real estate contracts, the same problems arise whenever notaries communicate with the courts in connection with the authorisation of legal transactions or send documents and data to the tax offices for the fulfilment of tax reporting obligations.

The aim of this draft law is the comprehensive digitisation of the exchange of documents and information between notaries, courts and administrative bodies in connection with the execution of real estate contracts, the judicial approval of notarial legal transactions, or the fulfilment of tax reporting obligations. This reduces the administrative burden, simplifies the procedure and thus reduces bureaucracy. At the same time, the digitisation of execution provides incentive for the expansion of electronic legal communications in land registry matters.

Another aim of this draft law is to provide the expert committees and the Federal Statistical Office with complete datasets on real estate transactions. A complete collection of price-forming data is crucial for such purposes among other things, for the creation of real estate price indices by the Federal Statistical Office. In addition, the Federal Statistical Office must provide the European Commission (specifically Eurostat) with the property price indices on a quarterly basis. In order to collect the necessary data, the parties to a real estate contract must provide the expert committees with certain data concerning the property. In practice, however, it has been shown that this obligation is often not fulfilled, or is fulfilled too late or only partially. This has a significant effects on the quality of data collection at present. In addition, notaries and parties predominantly send data to the expert committees in a paper-based and unstructured manner, which leads to further delays.

This draft law is set against the backdrop of the risk that the goals of the United Nations General Assembly resolution of 25 September 2015, ‘Transforming our World: the UN 2030 Agenda for Sustainable Development’, will not be achieved in time. In particular, the draft law contributes to the achievement of Sustainable Development Goal 16 to ensure equal access to justice for all and to build effective, accountable and transparent institutions at all levels.

B. Solution

The draft law provides for the electronic exchange of data and certificates within the scope of this Act by notaries, courts and administrative bodies. For this purpose, the parties involved should communicate via the EGVP [Electronic Court and Administration Mailbox] structure or the ELSTER structure. It should be possible to replace conventional documents with structured datasets in XML file format in appropriate cases. The dates from which communication must be carried out electronically are to be defined by the Federal States by means of statutory instruments as far as possible in order to enable the gradual introduction of electronic exchange in line with technical conditions. These ordinances must be drafted in compliance with the requirements of the Act on Equal Opportunities for Persons with Disabilities (BGG). The duty of the parties to a real estate contract to notify the expert committees should be made more precise and reinforced by an information duty for notaries. Firstly, the exchange of data between notaries and the expert committees is to be digitised and secondly the parties are given the opportunity to provide the expert committees with the necessary data via digital questionnaire.

C. Alternatives

The question as to whether regulatory matters addressed by this draft law could also be implemented in the Online Access Act (OZG) was examined. Although parts of this draft law also fall within the scope of the OZG, this draft law takes account of specific practical requirements in the communication between notaries, courts and the administration in relation to real estate contracts, judicial approvals of notarial transactions and the fulfilment of tax reporting duties, which cannot be fully reflected by the provisions of the OZG and therefore require an arrangement under special legislation.

D. Budgetary expenditure without compliance costs

No budgetary expenditures without compliance costs were reported by the Federal States and municipal authorities.

E. Compliance costs

E.1 Compliance costs for citizens

Compliance costs for citizens will be reduced by a total of around EUR 5 million thanks to the fact that the expenses of the appointed notaries in executing real estate contracts will be reduced.

E.2 Compliance costs for businesses

Compliance costs for businesses will be reduced by around EUR 1.5 million overall, as the expenses incurred by the notaries commissioned to execute real estate contracts will be lower. This saving constitutes an 'out' as defined by the Federal Government's 'one in, one out' rule.

Administrative costs under this heading arising from information duties

The bureaucratic costs for business arising from information duties will be reduced by a total of around EUR 1.5 million.

E.3 Compliance costs for the administration

The introduction or expansion of electronic legal communications, in particular in connection with the execution of real estate contracts, reduces the annual compliance costs for the administrative authorities of the Federal States by around EUR 10.68 million. The administration of the Federal Government will be burdened with expenses of around EUR 3.36 million per year.

The one-off compliance costs incurred through the expansion of electronic legal communications in authorities and courts for the upgrading of the technical systems, in particular for the creation or installation of interfaces to take over structured data, amount to around EUR 179.7 million. Of that, EUR 53 000 is allocated to the Federal Government and EUR 1.34 million to the Federal States (including municipalities).

F. Other costs

Citizens will benefit from faster implementation and lower financing costs due to reduced commitment fees amounting to approximately 26 million euro. Businesses will benefit from lower financing costs of around EUR 9 million.

Draft Law of the Federal Government

Draft Law on the Digitisation of the Execution of Real Estate Contracts, the Judicial Approval of Notarial Transactions and Notaries' Tax Reports[1]

of [date]

The Federal Parliament, with the approval of the Federal Council, has passed the following Act:

Article 1

Amendment to the Building Code

The Building Code, in the version promulgated on 3 November 2017 (Federal Law Gazette I p. 3634), most recently by Article 5 of the Act of 12 April 2025 (Federal Law Gazette 2025 I, No 189), is amended as follows:

1. In the table of contents, the following is inserted after the reference to Sec. 213:

   'Sec. 213a Electronic transmission when notaries are involved

   Sec. 213b Statutory authorisation for electronic transmission'.

2. Sec. 195 is amended as follows:

   a) The following Paras. 2 and 3 are inserted after Para. 1:

   '(2) For the purpose of maintaining and evaluating the purchase price collection, those who conclude a contract as defined by Para. 1(1), or declare an offer or acceptance as defined by Para. 1(2), are required to provide the expert committee with the necessary data on the property concerned at its request. The data required under (1) shall generally include the following in particular:

   1. the district, field and parcel number, if listed in the land register,

   2. the location characteristics,

   3. the actual use and future planned use,

   4. the revenue (in land that is rented out or leased land, be it in whole or in part),

   5. for developed land:

      a) the types of structures,

      b) the year of construction and the year and scope of any modernisation work carried out,

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1 Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17/9/2015, p. 1).

c) the living space and the usable space,

d) the furnishings and quality of structures,

e) the data from the energy performance certificate on the energy efficiency of the building,

f) any intentions to demolish any structures,

6. information as to whether persons subject to notification duties are farmers (in the case of agricultural land),

7. information on the forestry stock (in the case of forestry land),

8. any accessories sold along with the land, if not specified in the purchase contract,

9. in the case of heritable building rights and land encumbered with heritable building rights, the ground rent and the term of the heritable building right.

If the subjects under notification duty do not have precise information, an estimate will suffice. The estimate must be identified as such. Notification shall be made using the means of notification provided by the expert committee.

(1) When requesting notification, the expert committee shall draw the attention of the subjects under notification duty to their duties under Para. 2 and shall provide them with information on the significance of the requested data in an appropriate manner. The expert committee shall set the parties subject to the reporting duty a deadline of at least one month from receipt of the request and must enable them to make the notification under Para. 2 directly in an electronic form via the internet.

b) Paras. 2 and 3 become Paras. 3 and 4.

3. Sec. 196 (3)(1) is replaced by the following sentence:

‘The reference ground values shall be published and transmitted in electronic form to the competent financial authorities in accordance with the officially prescribed dataset through the officially designated interface.’

4. The following Secs. 213a and 213b are inserted after Sec. 213:

‘Sec. 213a

Electronic transmission when notaries are involved

(1) Notaries shall transmit the following documents as electronic documents in accordance with the statutory instruments under Sec. 213b:

1. the application for the issuance of a permit pursuant to Sec. 22(1)(1), Sec. 51(1)(1), Sec. 109(1), Sec. 144(1) or (2), Sec. 172(1)(4) or Sec. 250(1)(1) or (6)(1), as well as the application for the issuance of a certificate pursuant to Sec. 22(5)(5), Sec. 28(1)(3) or Sec. 145(6)(2);

2. notification of the content of the purchase contract pursuant to Sec. 28(1)(1);

3. the copies of the documents on the contract, the offer and the acceptance under Sec. 195(1) and any annexes thereto.

(2) The electronic documents referred to in Para. 1 shall be transmitted as follows:

1. applications referred to in Para. 1(1) to the special electronic mailbox of the body responsible for the permit or certificate, or legal entity thereof,

2. notifications referred to in Para. 1(2) to the special electronic mailbox of the municipality,

3. documents referred to in Para. 1(3) to the special electronic mailbox of the expert committee.

(3) If additional documents are transmitted with the application referred to in Para. 1(1) or the notification referred to in Para. 1(2), they shall also be transmitted as electronic documents. Para. 2(1) and (2) and the provisions in any statutory instruments adopted pursuant to Sec. 213b(1) and (4)(1) and (4) shall apply to the transmission.

(4) The competent bodies shall transmit the following documents as electronic documents to the notary in accordance with the statutory instruments referred to in Sec. 213b:

1. the permits referred to in Sec. 22(1)(1), Sec. 51(1)(1), Sec. 109(1), Sec. 144(1) and (2), Sec. 172(1)(4) and Sec. 250(1)(1) and (6)(1);

2. the certificates referred to in Sec. 22(5)(5), Sec. 28(1)(3) and Sec. 145(6)(2).

The permits and certificates referred to in Sentence 1 shall be sent to the special electronic notary mailbox. The electronic documents must comply with the form specified in Sec. 137(2) of the Land Register Code.

(5) Any violation of the obligation to send applications or notifications as electronic documents from the date specified in a statutory instrument pursuant to Sec. 213b(2)(1)(1) on the part of the notary prior to 1 January 2027 shall not affect their legal validity or the receipt of the applications or notifications. A breach by the competent authority of its obligation to send permits and certificates as electronic documents from the date specified in a statutory instrument pursuant to Sec. 213b(2)(1)(2) shall not affect their legal validity.

Sec. 213b

Statutory authorisation for electronic transmission

(1) For transmissions pursuant to Sec. 213a(2) and (4)(2), the Federal State governments may, by means of a statutory instrument, determine additional electronic means of transmission.

(2) The Federal State governments shall establish the following by means of statutory instrument:

1. a date starting at which notaries must submit applications for the permits and certificates referred to in Sec. 213a(1)(1) and notifications of the content of the purchase contract pursuant to Sec. 28(1)(1) as electronic documents to

individual building approval authorities, municipalities, reallocation offices, expropriating authorities and certain bodies pursuant to Sec. 250(2)(1), and

2. a date from which the competent authorities must send the permits and certificates referred to in Sec. 213a(4)(1) to notaries as electronic documents, whereby a different earlier date may be specified for individual building approval authorities, municipalities, reallocation offices, expropriating authorities and certain bodies pursuant to Sec. 250(2)(1).

The dates referred to in Sentence 1 may not be after 1 January 2027. The statutory instrument referred to in Sentence 1(1) shall specify the recipient designations required for electronic transmission of the building approval authorities, municipalities, reallocation offices, expropriating authorities and certain bodies designated under Sec. 250(2)(1) affected by the statutory instrument, including the unique technical mailbox designations.

(3) The Federal State governments may transfer the powers under Paras. 1 and 2(1) to a supreme Federal State authority by means of statutory instrument.

(4) The Federal Government is empowered to do the following via statutory instrument with the consent of the Federal Council,

1. regulate details of data transmission and data storage and define file formats and accessibility requirements for the documents to be transmitted;

2. stipulate that notaries must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document;

3. stipulate that the bodies referred to in Para. 2(1)(2) must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document; and

4. to enact provisions for the event of technical malfunctions.’

Article 2

Amendment to the Notarisation Act

The Notarisation Act of 28 August 1969 (Federal Law GazetteI p. 212), last amended by Article 5 of the Act of 8 October 2023 (Federal Law Gazette 2023 I, No 271), is amended as follows:

1. In the table of contents, the following is inserted after the reference to Sec. 20a:

   ‘Sec. 20b Duty to report to the expert committee’.

2. After Sec. 20a, the following Sec. 20b is inserted:

‘Sec. 20b

Duty to report to the expert committee

If the notary certifies a contract as defined by Sec. 195(1)(1) of the Building Code or an offer or acceptance as defined by Sec.195(1)(2) of the Building Code, he or she shall draw the parties’ attention to the existence of obligations to notify the expert committee pursuant to Sec. 195(2) of the Building Code and shall record this in the transcript.’

Article 3

Amendment to the Electronic Legal Transactions Ordinance

The Electronic Legal Transactions Ordinance of 24 November 2017 (Federal Law GazetteI p. 3803), last amended by Article 43 of the Act of 12 July 2024 (Federal Law Gazette2024 I, No 234), is amended as follows:

1. Sec. 1(1) is replaced by the following Para. 1:

   ‘(1) This Ordinance applies

   1. to the transmission of electronic documents to the courts of the Federal States and the Federal Government pursuant to Sec. 130a of the Code of Civil Procedure, Sec. 46c of the Labour Court Act, Sec. 65a of the Social Courts Act, Sec. 55a of the Code of Administrative Court Procedure and Sec. 52a of the Code of Financial Procedure as well as for the suitability of electronic documents for processing by the courts,

   2. in accordance with Chapter 5, to the transmission of electronic documents to the law enforcement authorities and the criminal courts of the Federal States and the Federal Government pursuant to Sec. 32a of the Code of Criminal Procedure and to the suitability of electronic documents for processing by law enforcement authorities and criminal courts,

   3. in accordance with Chapter 6, to the transmission of electronic documents to notaries in accordance with Secs. 41a and 46(2) of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction,

   4. in accordance with Chapter 7, to the transmission of electronic documents to authorities and notaries in the context of electronic notary-administration exchanges.’

2. After Sec. 15, the following Chapters 6 and 7 are inserted:

‘Chapter 6

Electronic legal communications between courts and notaries for the approval of notarial acts

Sec. 16

Submission of applications to the court

(1) The electronic document with which a notary applies to a court for a permit for a legal transaction must be transmitted as a structured, machine-readable dataset in XML file format that complies with the definition or schema files and technical characteristics promulgated under Sec. 5(1)(2) and (6). The dataset must include the following information at a minimum:

1. the information referred to in Sec. 2(3),
2. the name and official address of the notary,
3. the register of deeds number and the date of the deed; and
4. the application for the permit.

(2) Sec. 2(1) and (2) and Secs. 3 to 5 shall apply accordingly to the transmission of a copy of a deed by the notary to a court in connection with an application under Para. 1.

(3) If, for technical reasons, it is temporarily not possible to transmit the documents referred to in Paras. 1 and 2 as electronic documents, they shall be sent in paper form.

Sec. 17

Transmission of approval decisions and certificates of legal validity to the notary

(1) Secs. 2 to 5 shall apply accordingly to approval decisions, negative clearance and certificates of legal validity transmitted as electronic documents in accordance with Secs. 41a and 46(2) of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction, subject to the provisions of Para. 2.

(2) The dataset referred to in Sec. 2(3) shall contain at least the following information:

1. the name and official address of the notary,
2. the number in the register of deeds and the date of the deed,
3. the issuing court and the issuing persons,
4. the date and reference number of the decision,
5. the decision and
6. an indication of whether the decision has entered into legal effect.

(3) If, for technical reasons, it is temporarily not possible to transmit the documents referred to in Para. 1 as electronic documents, they shall be sent in paper form.

Chapter 7

Electronic notary administration exchange

Sec. 18

General provisions

(1) In the scope of electronic notary administrative exchange, notaries and authorities shall transmit electronic documents in accordance with

1. Sec. 213a of the Building Code,
2. Sec. 25(1) and (2) and Sec. 26(8)(1) of the Land Transactions Act and
3. Secs. 12 and 13(8)(1) of the Property Transactions Ordinance.

(2) Secs. 3 to 5 shall apply accordingly to the transmission of electronic documents within the scope of electronic notary administrative exchange.

Sec. 19

Communications to the authority

(1) Sec. 2(1) and (2) shall apply accordingly to the transmission of the copy of a deed by the notary to an authority within the scope of the electronic notary administrative exchange.

(2) The application referred to in Sec. 213a(1)(1) of the Building Code, Sec. 25(1) of the Property Transactions Act and Sec. 12(1) of the Property Transactions Ordinance, must be submitted as a structured, machine-readable dataset in XML file format that complies with the definition or schema files and technical characteristics promulgated under Sec. 5(1)(2) and (6). The dataset must include the following information at a minimum:

1. the name and official address of the notary,
2. the number in the register of deeds and the date of the deed,
3. the name of the district court of the land registry office and the land registry number,
4. the name of the parties involved,
5. the district, field, parcel number and size of the plots of land concerned, insofar as this information is known to the notary, and
6. the request for a decision to be made.

(3) The notification of the content of the contract of sale pursuant to Sec. 213a(1)(2) of the Building Code shall be submitted as a structured machine-readable dataset in XML file format that corresponds to the definition or schema files and technical characteristics promulgated under Sec. 5(1)(2) and (6). The dataset must include the following information at a minimum:

1. the name and official address of the notary,

2. the number in the register of deeds and the date of the deed,

3. the name of the district court of the land registry office and the land registry number,

4. the district, field, parcel number and size of the plots of land concerned, insofar as this information is known to the notary, and

5. the request for a decision to be made.

(4) The copies of the documents relating to the contract, the offer and the acceptance, with any accompanying annexes, which the notary transmits to the expert committee in accordance with Sec. 213a(1)(3) of the Building Code, shall be accompanied by a structured machine-readable dataset in XML file format which complies with the definition or schema files and technical characteristics promulgated under Sec. 5(1)(2) and (6). The dataset must include the following information at a minimum:

1. the name and official address of the notary,

2. the number in the register of deeds and the date of the deed,

3. the name of the district court of the land registry office and the land registry number,

4. the name of the parties involved,

5. the acquirer’s share of the acquisition,

6. the compensation and

7. provided that this information is known to the notary:

   a) the district, field, parcel number, size, location description and the type of land concerned,

   b) the year of construction and the residential and useful floor area of standing buildings; and

   c) the residential or business addresses and email addresses of the parties involved.

(5) If, for technical reasons, it is temporarily impossible to transmit the copies, applications and notifications referred to in Paras. 1 to 4 as electronic documents, they shall be sent in paper form. If, for technical reasons, it is temporarily not possible to transmit the dataset referred to in Para. 4 as an electronic document, only the copy of the deed in paper form shall be sent.

Sec. 20

Transmission to the notary

(1) From the date specified in a statutory instrument pursuant to Sec. 213b(2)(1)(2)of the Building Code, Sec. 26(4)(1)(2) of the Land Transactions Act or Sec. 13(4)(1)(2) of the Land Transactions Ordinance, the following shall be transmitted as a structured machine-readable dataset in XML file format:

1. from the Building Code

a) the permits referred to in Sec. 22(1)(1), Sec. 51(1)(1), Sec. 109(1), Sec. 144(1) and (2), Sec. 172(1)(4) and Sec. 250(1)(1) and (6)(1),

b) the certificates referred to in Sec. 22(5)(5), Sec. 28(1)(3) and Sec. 145(6)(2),

2. from the Property Transactions Act

a) the permit referred to in Sec. 2(1)(1)

b) the certificate referred to in Sec. 5(1), and Sec. 6(3),

c) The attestation referred to in Sec. 11(2),

3. the approval referred to in Sec. 2(1)(1) of the Property Transactions Ordinance.

(2) The structured machine-readable dataset shall comply with the definition or schema files and technical characteristics promulgated under Sec. 5(1)(2) and (6). It shall contain at least the following information:

1. the name and official address of the notary,

2. the number in the register of deeds and the date of the deed,

3. the name of the district court of the land registry office and the land registry number,

4. the district, field and parcel number of the affected properties, provided this information has been communicated by the notary,

5. the name of the issuing body or authority and the name of the issuing person,

6. the date and reference number of the decision,

7. the addressee of the decision and

8. the decision.

(3) If the authority transmits permits, certificates or attestations in accordance with Para. 1(1) to (3), as electronic documents without being obliged to do so on the basis of a statutory instrument pursuant to Sec. 213b(2)(1)(2) of the Building Code, pursuant to Sec. 26(4)(1)(2) of the Land Transfer Act or pursuant to Sec. 13(4)(1)(2) of the Property Transactions Ordinance, the permits, certificates and attestations must

1. comply with the requirements of Paras. 1 and 2, and

2. be suitable for processing by the land registry office with regard to technical specifications for data transmission and file format.

(4) If, for technical reasons, it is temporarily not possible to transmit the documents referred to in Para. 1 as electronic documents, they shall be sent in paper form.'

Article 4

Amendment to the Land Register Code

The Land Register Code, as promulgated on 26 May 1994 (Federal Law Gazette I p. 1114), as last amended by Article 6 of the Act of 25 February 2025 (Federal Law Gazette 2025 I, No 63), is amended as follows:

The following Para. 4 is added after Sec. 29(3):

'(4) A certified printout or certified copy of an electronic document that meets the requirements of Sec. 137(1) shall also satisfy the form requirement of Para. 1. A certified printout or certified copy of an electronic document that meets the requirements of Sec. 137(2) shall also satisfy the form requirement of Para. 3(1).'

Article 5

Amendment to the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction

The Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction of 17 December 2008 (Federal Law Gazette I p. 2586, 2587), as last amended by Article 3 of the Act of 7 April 2025 (Federal Law Gazette 2025 I, No 109), is amended as follows:

1. In the table of contents, the following is inserted after the reference to Article 41:

   'Sec. 41a Electronic promulgation; transmission; statutory authorisations'.

2. After Sec. 41, the following Sec. 41a is inserted:

'Sec. 41a

Electronic promulgation; transmission; statutory authorisations

(1) A decision concerning a permit for a legal transaction must be notified to a notary as a judicial electronic document. The court must recognise the qualified certificate which a signature used in the preparation of the document is based on or a related qualified authorisation certificate.

(2) The Federal Government is empowered to do the following via statutory instrument with the consent of the Federal Council,

1. regulate the details of data transmission and data storage, and to specify file formats and accessibility requirements for the judicial electronic documents to be transmitted,

2. stipulate that courts must transmit certain information in a structured, machine-readable form in addition to the electronic court document, and

3. enact provisions for the event of technical malfunctions.'

3. Sec. 46 is replaced by the following Sec. 46:

'Sec. 46

Certificate of legal effect

(1) The certificate confirming the legal effect of a decision shall be issued by the registry of the court of first instance on the basis of the case files. As long as the proceedings are pending in a higher court, the registry of that court shall issue the certificate. In matters of matrimony and parentage, the parties involved shall be issued with a certificate of legal effect on one copy without giving reasons. The decision of the office may be challenged by means of a reminder in accordance with Sec. 573 of the Code of Civil Procedure.

(2) A notary must be issued with a certificate confirming the legal effect of a decision concerning the approval of a legal transaction in the form of a judicial electronic document. Sec. 41a(1)(2) applies accordingly. The authorisation under Sec. 41a(2) shall apply accordingly to the certificate of legal effect of a decision pursuant to Sentence 1.'

4. In Sec. 113(1)(1) the specification '46 Sentences 1 and 2' are replaced by the words '46(1), Sentences 1 and 2, and (2)'.

Article 6

Amendment to the Real Property Transfer Tax Act

The Real Property Transfer Tax Act in the version promulgated on 26 February 1997 (Federal Law Gazette I p. 418, 1804), as last amended by Article 33 of the Act of 2 December 2024 (Federal Law Gazette 2024 I, No 387), is amended as follows:

1. Sec. 22a is replaced by the following Sec. 22a:

'Sec. 22a

Authorisation to issue statutory instruments

The Federal Ministry of Finance shall be authorised to do the following in agreement with the Federal Ministry of Justice and Consumer Protection and with the consent of the Federal Council, for notifications pursuant to Sec. 18(1)(2), for the copy of the deed pursuant to Sec. 18(1)(3) and for certificates to be issued electronically pursuant to Sec. 22(2)(5) in the version applicable from 1 January 2028, by means of a statutory instrument:

1. regulate the details of data transmission and data provision and define file formats and accessibility requirements for the documents to be transmitted and provided; and

2. stipulate that notaries and tax offices must transmit or provide the information contained in the electronic document, either in addition to the electronic document or within this electronic document, in whole or in part, in a structured, machine-readable form.'

2. In Sec. 23(16),(2), the specification 'Sec. 22a(1)' is replaced by the specification 'Sec. 22a'.

Article 7

Further amendment to the Real Property Transfer Tax Act

The Real Property Transfer Tax Act, as last amended by Article 6 of this Act, is amended as follows:

1. Sec. 18 is amended as follows:

a) Para. 1 is replaced by the following Para. 1:

'(1) Courts and authorities must notify the competent tax office in writing, using the officially prescribed form, of

1. any legal transactions they have certified or for which they have drafted a deed and certified a signature, if the legal transactions relate to a property within the scope of this Act;

2. any applications for correction of the land register which they have certified or for which they have drafted a deed and certified a signature, if the application is based on a change in the owner of the property;

3. any decisions on surcharges in compulsory auction proceedings, expropriation decisions and other decisions that result in a change in property ownership; the courts are also required to notify changes in property ownership based on entries in the commercial register, register of cooperatives or register of associations;

4. subsequent amendments or corrections to any of the transactions referred to in Points 1 to 3.

In the cases referred to in Sentence 1, notaries must submit the notification electronically in accordance with the officially prescribed dataset via the officially designated interface in accordance with Sec. 22a of this Act and Sec. 93c of the Fiscal Code. The notification must be accompanied by a copy of the deed relating to the legal transaction, the application, the resolution or the decision.'

b) The following sentence shall be inserted after Para. 2(2):

'The time limit referred to in Sentence 1 may be extended in duly justified exceptional cases.'

c) Para. 4 is replaced by the following Para. 4:

‘(4) The courts and authorities shall record the sending of the notification on the original of the deed and, in cases in which a deed has been drafted and a signature has been certified thereon, on the retained certified copy. Notaries shall record the transmission of the notification in the register of deeds.’

2. Sec. 22a is replaced by the following Sec. 22a:

‘Sec. 22a

Electronic procedure for transmission; statutory authorisation

(1) The electronic submission of the notification by the notaries pursuant to Sec. 18(1)(2) and the sending of the copy of the deed in accordance with Sec. 18(1)(3) shall be carried out by means of a secure procedure in accordance with Sec. 87a(6) of the Fiscal Code.

(2) The Federal Ministry of Finance shall be authorised to do the following in agreement with the Federal Ministry of Justice and Consumer Protection and with the consent of the Federal Council, for notifications pursuant to Sec. 18(1)(2), for the copy of the deed pursuant to Sec. 18(1)(3) and for certificates to be issued electronically pursuant to Sec. 22(2)(5) in the version applicable from 1 January 2028, by means of a statutory instrument:

1. regulate the details of data transmission and data provision and define file formats and accessibility requirements for the documents to be transmitted and provided; and

2. stipulate that notaries and tax offices must transmit or provide the information contained in the electronic document, either in addition to the electronic document or within this electronic document, in whole or in part, in a structured, machine-readable form.’

3. In Sec. 23(16),(2), the specification ‘Sec. 22a’ is replaced by the specification ‘Sec. 22a(2)’.

Article 8

Further amendment to the Real Property Transfer Tax Act as of 1 January 2028

The Real Property Transfer Tax Act, as last amended by Article 7 of this Act, will be amended as follows:

1. The following sentences are inserted after Sec. 22(2)(4):

‘Notwithstanding Sentences 3 and 4, the certificate shall be issued to a notary in electronic form in accordance with Sec. 22a. The certificate may also be submitted to the land registry office by a notary, either by the notary transmitting the certificate electronically or by submitting a printout of the certificate; Secs. 29 and 137 of the Land Register Code do not apply in this respect. The notary may only submit an electronic certificate or a printout thereof to the land registry office if it has been transmitted to him in accordance with Sec. 22a.’

2. Sec. 22a is replaced by the following Sec. 22a:

‘Sec. 22a

Electronic procedure for transmission; statutory authorisation

(1) The electronic submission of the notification by the notaries pursuant to Sec. 18(1)(2) and the sending of the copy of the deed in accordance with Sec. 18(1)(3) shall be carried out by means of a secure procedure in accordance with Sec. 87a(6) of the Fiscal Code. The electronic certificates referred to in Sec. 22(2) shall be made available by the tax office via a secure procedure in accordance with Sec. 87a(8) of the Fiscal Code.

(2) A deviation by the tax office from Para. 1(2) shall not preclude the validity of the certificate.

(3) The Federal Ministry of Finance shall be authorised to do the following, in agreement with the Federal Ministry of Justice and Consumer Protection and with the consent of the Federal Council, for notifications pursuant to Sec. 18(1)(2) for the copy of the deed referred to in Sec. 18(1)(3) and for the certificates referred to in Sec. 22(2)(5) by means of a statutory instrument:

1. regulate the details of data transmission and data provision and define file formats and accessibility requirements for the documents to be transmitted and provided; and

2. stipulate that notaries and tax offices must transmit or provide the information contained in the electronic document, either in addition to the electronic document or within this electronic document, in whole or in part, in a structured, machine-readable form.’

3. In Sec. 23(16),(2), the specification ‘Sec. 22a(2)’ is replaced by the specification ‘Sec. 22a(3)’.

Article 9

Amendment to the Inheritance Tax and Gift Tax Act

The Inheritance and Gift Tax Act in the version promulgated on 27 February 2014 (Federal Law Gazette I p. 378), last amended by Article 34 of the Act of 2 December 2024 (Federal Law Gazette 2024 I, No 387), is amended as follows:

Sec. 34 is amended as follows:

1. Para. 1 is replaced by the following Para. 1:

‘(1) The courts, authorities and officials shall notify the tax office competent for administering inheritance tax in writing of any deeds, certificates and writs that may be relevant to the assessment of inheritance tax. In the cases referred to in Sentence 1, notaries shall, in accordance with the officially prescribed dataset, electronically file a notification via the officially determined interface in accordance with Sec. 93c of the Fiscal Code. The electronic submission of the notification by the notaries in accordance with Sentence 2 and the transmission of copies of the dispositions and documents referred to in Sec. 7(1) of the Inheritance Tax Implementation Ordinance and the deeds referred to in Sec. 8(1) of the Inheritance Tax Implementation Ordinance shall be carried out using a secure procedure in accordance with Sec. 87a(6) of the Fiscal Code.'

2. Para. 2(2) is replaced by the following Point 2:

'2. the courts:

the issuance of certificates of inheritance, European Certificates of Succession, certificates of executorship and certificates of continuation of community of property, decisions on declarations of death, and the ordering of estate administration and estate management;'.

Article 10

Amendment to the Inheritance and Gift Tax Act

The Inheritance and Gift Tax Act of 8 September 1998 (Federal Law GazetteI, p. 2658), as last amended by Article 6 of the Ordinance of 19 December 2022 (Federal Law GazetteI p. 2432) is amended as follows:

1. Sec. 7(5) is replaced by the following Para. 5:

'(5) The above-mentioned provisions shall apply accordingly to:

1. Notaries, insofar as they certify agreements on the settlement of inheritance disputes, with the proviso that, contrary to Para. 1, notifications must be made in electronic form in accordance with Sec. 34(1)(2) and (3) of the Inheritance and Gift Tax Act;

2. other certifying officials, insofar as they are entrusted with the affairs of the probate court.

In the case referred to in Sentence 1(1), the dispatch of the notification shall be recorded by the notary in the register of deeds instead of the endorsement on the original.'

2. Sec. 6(4) is replaced by the following Para. 4:

'(4) The above provisions shall apply accordingly to:

1. notaries, with the proviso that, in deviation from Para. 1, notifications must be made in electronic form in accordance with Sec. 34(1)(2) and (3) of the Inheritance and Gift Tax Act;

2. other certifying officials.

In the case referred to in Sentence 1(1), the dispatch of the notification shall be recorded by the notary in the register of deeds instead of the notation on the original deed.'

Article 11

Amendment to the Fiscal Code

The Fiscal Code, as promulgated on 23 January 2025 (Federal Law Gazette 2025 I No 24) is amended as follows:

Sec. 31b(2b) is deleted.

Article 12

Further amendment to the Fiscal Code

The Fiscal Code, last amended by Article 11 of this Act, is amended as follows:

After Sec. 31b(2a), the following Para. 2b is inserted:

‘(2b) In accordance with Sec. 31(5a) of the Money Laundering Act, the Federal State tax authorities shall transmit in an automated procedure the datasets received pursuant to Sec. 22a of the Real Property Transfer Tax Act to the central body for financial transaction investigations for the performance of its tasks under Sec. 28(1)(3)(2) of the Anti-Money Laundering Act. Para. 2(2) applies accordingly.’

Article 13

Amendment to the Money Laundering Act

The Money Laundering Act of 23 June 2017 (Federal Law Gazette I p. 1822), last amended by Article 8 of the Act of 27 December 2024 (Federal Law Gazette 2024 I, No 438), is amended as follows:

Sec. 31(5a) is deleted.

Article 14

Further amendment to the Money Laundering Act

The Money Laundering Act, which was last amended by Article 13 of this Act, is amended as follows:

The following Para. 5a is inserted after Sec. 31(5):

‘(5a) The central body for financial transaction investigations may, under the conditions laid down in Para. 5(2), collect from the Federal State tax authorities the datasets received there pursuant to Sec. 22a of the Real Property Transfer Tax Act and otherwise process them, insofar as facts justify the assumption that the transaction has a connection to a procedure to be notified in accordance with Sec. 18(1)(1) and (2) of the Real Property Transfer Tax Act. Para. 5(3) to (5)(7) and (10) shall apply accordingly.’

Article 15

Amendment to the Property Transactions Act

The Property Transactions Act, in the corrected version published in the Federal Law Gazette, Part III, No 7810-1, as last amended by Article 108 of the Act of 17 December 2008 (Federal Law GazetteI p. 2586) is amended as follows:

Secs. 25 and 26 are replaced by the following Secs. 25 and 26:

'Sec. 25

Electronic procedure

(1) Notaries shall transmit the application for the issuance of the following documents as an electronic document in accordance with Sec. 26:

1. the permit referred to in Sec. 2(1)(1)
2. the certificate referred to in Sec. 5(1) and Sec. 6(3) and
3. the attestation referred to in Sec. 11(2).

(2) The approval authority shall transmit the documents referred to in Para. 1 to the notary as electronic documents in accordance with Sec. 26. The electronic documents must comply with the form specified in Sec. 137(2) of the Land Register Code.

(3) Paras. 1 and 2 shall not apply if the permits, certificates and attestations are issued by the court in accordance with the provisions of the Order on Farms [Höfeordnung – HöfeO].

Sec. 26

Electronic transmission; statutory authorisations

(1) Applications pursuant to Sec. 25(1) shall be sent to the special electronic mailbox of the approval authority or legal entity thereof.

(2) The permits, certificates and attestations referred to in Sec. 25(1) shall be transmitted to the special electronic notary mailbox.

(3) The governments of the Federal States may determine additional electronic transmission channels for transmissions in accordance with Paras. 1 and 2 by statutory instrument.

(4) The Federal State governments shall establish the following by means of statutory instrument:

1. a date from which notaries must submit the application as an electronic document to individual or all approval authority; and
2. a date from which approval authorities must transmit permits pursuant to Sec. 2(1)(1), certificates pursuant to Sec. 5(1) and Sec. 6(3), and attestations pursuant to Sec.

11(2) to notaries as electronic documents, although a different earlier date may be specified for individual approval authorities.

The dates referred to in Sentence 1 may not be after 1 January 2027. The statutory instrument referred to in Sentence 1(1) shall specify the recipient names of the approval authorities concerned by the statutory instrument, including the unique technical mailbox names, which are necessary for electronic transmission. Any breach by the notary prior to 1 January 2027 of the obligation to transmit the application as an electronic document from the date specified in the statutory instrument referred to in Sentence 1(1), shall not affect the legal validity and receipt of the application.

(5) The Federal State governments may transfer the permits under Para. 3 and Para. 4(1) to a supreme Federal State authority by means of a statutory instrument.

(6) A breach by the approving authority of the obligation to transmit the permits, certificates and attestations referred to in Sec. 2(1)(1), Sec. 5(1), Sec. 6(3) and Sec. 11(2) as an electronic document from the date determined in the statutory instrument pursuant to Para. 4(1)(2) shall not preclude the legal validity of the permits, certificates and attestations.

(7) The Federal Government is empowered to do the following via statutory instrument with the consent of the Federal Council,

1. Define details of data transmission and define file formats and accessibility requirements for the documents to be transmitted;

2. stipulate that notaries must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document;

3. stipulate that approval authorities must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document; and

4. To enact provisions for the event of technical malfunctions.

(8) From the date specified in the statutory instrument pursuant to Para. 4(1)(1), the copy of the deed relating to the legal transaction requiring the permit shall also be transmitted in electronic form. The transmission of the copy shall be subject to Para. 1 and to the provisions of the statutory instruments adopted pursuant to Paras. 3 and 7(1) and (4).'

Article 16

Amendment to the Property Transactions Ordinance

The Property Transactions Ordinance, as promulgated on 20 December 1993 (Federal Law GazetteI p. 2182, 2221), last amended by Article 18 of the Act of 21 November 2016 (Federal Law GazetteI p. 2591) is amended as follows:

The following Secs. 12 and 13 are added after Sec. 11:

‘Sec. 12

Electronic procedure

(1) Notaries shall transmit the application for a permit pursuant to Sec. 2(1)(1) as an electronic document in accordance with Sec. 13.

(2) The authority competent under Sec. 8 shall transmit to the notary the permit referred to in Sec. 2(1)(1) as an electronic document in accordance with Sec. 13. The electronic document must comply with the form specified in Sec. 137(2) of the Land Register Code.

Sec. 13

Electronic transmission; statutory authorisations

(1) Applications pursuant to Sec. 12(1) shall be sent to the special electronic mailbox of the competent authority under Sec. 8.

(2) Permits pursuant to Sec. 12(2) shall be transmitted to the special electronic notary mailbox.

(3) The governments of the Federal States may determine additional electronic transmission channels for transmissions in accordance with Paras. 1 and 2 by statutory instrument.

(4) The Federal State governments shall establish the following by means of statutory instrument:

1. a date from which notaries must submit the application for the permit referred to in Sec. 2(1)(1) as an electronic document to individual or all competent authorities in accordance with Sec. 8, and

2. a date from which the competent authorities pursuant to Sec. 8 must transmit the permit referred to in Sec. 2(1)(1) to notaries as an electronic document, although a different earlier date can be determined for individual competent authorities.

The dates referred to in Sentence 1 may not be after 1 January 2027. The statutory instrument referred to in Sentence 1(1) shall specify the addressee names of the competent bodies concerned by the statutory instrument, including the unique technical mailbox names, which are required for electronic transmission. Any breach by the notary prior to 1 January 2027 of the obligation to transmit the application as an electronic document from the date specified in the statutory instrument referred to in Sentence 1(1), shall not affect the legal validity and receipt of the application.

(5) The Federal State governments may transfer the powers under Paras. 3 and 4(1) to a supreme Federal State authority by means of statutory instrument.

(6) A breach by the competent authority under Sec. 8 of its obligation to transmit the permit referred to in Sec. 2(1)(1) as an electronic document from the date specified in the statutory instrument pursuant to Para. 4(1)(2) shall not affect the legal validity of the permit.

(7) The Federal Government is empowered to do the following via statutory instrument with the consent of the Federal Council,

1. Define details of data transmission and define file formats and accessibility requirements for the documents to be transmitted;

2. stipulate that notaries must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document;

3. stipulate that the competent bodies as per Sec. 8 must transmit certain information in structured machine-readable form in addition to the electronic document or, if transmitted in structured machine-readable form, in this electronic document; and

4. To enact provisions for the event of technical malfunctions.

(8) From the date specified in the statutory instrument pursuant to Para. 4(1)(1), the copy of the deed relating to the legal transaction requiring the permit shall also be transmitted in electronic form. Para. 1 and the provisions of statutory instruments issued in accordance with Para. 3 and Para. 7(1) and (4), shall apply to the transmission of the copy.

(9) The Federal Ministry of Justice and Consumer Protection shall be authorised, without the consent of the Federal Council, to enact the provisions referred to in Paras. 3 and 4 by way of statutory instrument, provided that:

1. the Federal Institute for Special Tasks Arising from Unification or one of its bodies with power of disposition, or

2. a transfer has been or is being made in accordance with Sec. 8(3).

The Federal Ministry of Justice and Consumer Protection may, by means of a statutory instrument, delegate this authorisation to one or more other bodies of the Federal Government.'

Article 17

Amendment to the Property Law Adjustment Act

The Property Law Adjustment Act of 21 September 1994 (Federal Law Gazette I p. 2457), last amended by Article 15(20) of the Act of 4 May 2021 (Federal Law Gazette I p. 882), is amended as follows:

Sec. 97(1) is replaced by the following Para. 1:

(1) ' The notary may conduct investigations at the request of a party involved. In particular, it may:

1. obtain information from the purchase price collection and reference ground value (Sec. 195(5) and Sec. 196(3) of the Building Code),

2. apply for a land division procedure,

3. commission the authority competent for maintaining the land registry or a person authorised to carry out cadastral surveys under Federal State law to survey the areas to be encumbered or written off and submit an application for a division permit in accordance with Sec. 120.'

Article 18

Amendment to the Valuation Act

The Valuation Act in the version promulgated on 1 February 1991 (Federal Law Gazette I p. 230), last amended by Article 36 of the Act of 2 December 2024 (Federal Law Gazette 2024 I, No 387), is amended as follows:

Sec. 179(2) is replaced by the following sentence:

‘The reference ground values shall be determined by the expert committees in accordance with the Building Code, published and transmitted in electronic form to the competent financial authorities in accordance with the officially prescribed dataset through the officially designated interface.’

Article 19

Entry into effect

(1) Subject to Paras. 2 to 6, this Act shall enter into effect on ... [insert: date of the first day of the second quarter following promulgation].

(2) Articles 6, 11 and 13 shall enter into effect on the day following promulgation.

(3) In Article 1(2)(a), Sec. 195(3)(2) of the Building Code shall enter into effect on ... [insert: [date of the first day of the third quarter following promulgation]

(4) Article 8 shall enter into effect on 1 January 2028.

(5) Articles 9, 10, 12 and 14 shall enter into effect on the date on which the respective technical and organisational requirements for the electronic transmission in question are met. The Federal Ministry of Finance shall announce the respective date of entry into effect in the Federal Law Gazette.

Justification

A. General part

I. Objectives and necessity of the provisions

The aim of this draft law is to enable the digitalisation of communications between notaries, courts and administrative bodies in connection with the execution of a real estate contract, the judicial approval of notarial transactions or the fulfilment of tax reporting obligations. In view of the varying degrees of development of the digital infrastructure at the level of the entities concerned, the aim of this draft law is to introduce a mechanism allowing for a differentiated consideration of the performance of the various parties involved and of the effort they are required to make. In addition, the aim is to contribute to reducing bureaucracy, reducing administrative burdens and simplifying procedures as well as providing impetus to further expand electronic legal communications in land register matters. Finally, a comprehensive digitalisation of the execution of real estate contracts, the judicial approval of notarial transactions and the fulfilment of tax reporting obligations can contribute to more effective means of combating money laundering and financing of terrorism. The draft thus contributes to the achievement of Goal 9 ‘Build resilient infrastructure, promote sustainable industrialisation and foster innovation’ and Goal 16 ‘Peace, justice and strong institutions’ of the Sustainable Development Goals.

Another objective pursued by this draft law is to improve the data available to the expert committees and the Federal Statistical Office in order to provide a high-quality data basis for assessing value development on the property market. To this end, the legislative framework should be adapted to enable the Federal Statistical Office to produce real estate price indices in a timely manner and to comply with its obligation under Articles 3(1), 6(2) and 7(1)(b) of Regulation (EU) 2016/792 to make the real estate price indices available to the European Commission (Eurostat) on a quarterly basis. In addition, measures to improve data quality are to be taken by the expert committees and the Federal Statistical Office. At the same time, however, it must be ensured that digitisation does not come at the expense of data protection and data security. In addition, mechanisms should be put in place to ensure that the bodies concerned remain able to act in the event of disruption.

This draft law is set against the backdrop of the risk that the goals of the United Nations General Assembly resolution of 25 September 2015, ‘Transforming our World: the UN 2030 Agenda for Sustainable Development’, will not be achieved in time. In particular, the draft law contributes to the achievement of Sustainable Development Goal 16 to ensure equal access to justice for all and to build effective, accountable and transparent institutions at all levels.

II. Main content of the draft

1. Problem definition

a) Lack of digitalisation of the execution of real estate contracts

More than one million real estate contracts, i.e. purchase contracts for developed and undeveloped land and other types of land transfers, are recorded each year in the Federal Republic of Germany. The execution of a notarised real estate contract requires the exchange of information and documents between notaries, courts and various administrative bodies. Notaries obtain a negative certificate from the municipal authority regarding the municipal right of first refusal in accordance with Sec. 28(1)(3) of the Building Code (BauGB), apply for approval from the guardianship court under Sec. 1850 of the German Civil Code (BGB) and accept this on behalf of the parties involved, or send a copy of the property purchase contract to the relevant expert committee in accordance with Sec. 195(1)(1) BauGB. In many cases, the existence of official certificates is a prerequisite for registering the acquiring party to the real estate contract in Department I of the Land Register.

The execution of real estate transactions by notaries enables contracts to be drafted in line with the interests of the parties involved and agreements to be implemented in the land register in good time. It is generally necessary to draft a contract which makes the payment of compensation due subject to the existence of all the official certificates necessary for registration in the land register, in particular in order to protect the acquiring parties from an unsecured advance payment. In this context, it is regularly the responsibility of notaries to obtain the relevant permits and certificates, ensure that the real estate contract can be executed and inform the parties involved of the renewal date. In addition, notaries have the professional expertise to determine which administrative bodies need to be involved in the execution of a specific real estate transaction and are in regular contact with them. This ensures that property contracts are processed quickly, smoothly and without any red tape for the contracting parties.

In addition, the concentration of execution actions on notaries constitutes a significant relief for the parties involved. Notaries do not themselves have to obtain the permits and certificates required for land register execution and initiate the planned notifications. Rather, notaries are available as a single point of contact for the entire real estate transaction, submitting the necessary applications and receiving permits and certificates.

While notaries sometimes already communicate with the land registry offices by electronic means, communication with the authorities and courts involved when executing a real estate contract is carried out almost exclusively in paper form and by post. In most cases, a copy of the deed concerning the real estate contracts also has to be sent. This procedure leads to a significant delay in the execution of real estate contracts and causes a significant additional cost due to the fact that identical data must be collected several times: firstly by the notaries in the context of the preparation of the draft contract and secondly by the bodies involved, which to date have extracted the data required for further processing from the deed submitted themselves. This additional data collection by the bodies involved is also a source of error which may lead to further delays in the strictly formalised land registration procedure. In addition, the paper-based exchange of execution documents results in media discontinuity when electronic legal communications with land registry offices are initiated: Notaries have to digitise the documents sent by the courts and authorities in paper form to ensure that they can be used in the land registry process. This problem will be exacerbated by the forthcoming expansion of electronic legal communications to the land registry offices. Finally, a paper-based exchange of information and certificates is resource-intensive, given the number of real estate contracts that are concluded each year.

It is true that digital exchanges between notaries and the bodies involved in the execution of real estate contracts are already possible on a voluntary basis, i.e. after consultation between the bodies involved. However, almost no use is made of this possibility at present.

b) FLack of digitalisation in the judicial approval of notarial acts

The same problems arise whenever notaries apply to family, guardianship, probate or agricultural courts for approval of a legal transaction that does not involve a real estate contract and the courts send the corresponding approval decisions to the notaries.

c) Lack of digitalisation of tax cooperation obligations

The tax cooperation obligations of notaries are not limited to real estate contracts. The reporting duties under Sec. 34 of the Inheritance and Gift Tax Act (ErbStG) extend beyond real estate contracts in their material scope of application. In this respect, too, the notifications have made in paper form and by post to date, which, in addition to the time and material costs involved, requires the tax offices to collect the data from the deed copies and the completed forms another time.

d) Slow and incomplete data return to the expert committees

Sending copies of documents by notaries to the expert committees does not fully meet the data requirements of the expert committees for compiling the purchase price collection and the Federal Statistical Office for compiling real estate price indices. Rather, the expert committees are dependent on obtaining further information from the parties to real estate contracts after notarisation regarding price-determining characteristics of the property in question that are not included in the notarial contracts. This is currently done largely by the expert committees sending paper questionnaires to the participants by post and asking them to return the completed questionnaires by post. In practice, however, it has been shown that such requests for information from the expert committees often remain unanswered, so that complete datasets are often not available or are only available after delays. This also has an impact on the compilation of the price statistics because the expert committees are required to provide the Federal Statistical Office with information on the data they collect under Sec. 7(2) of the Act on Price Statistics (PreisStatG). Among other things, this means that the Federal Statistical Office regularly has to revise real estate price indices to be prepared on a quarterly basis in accordance with Article 3(1), Article 6(2) and Article 7(1)(b) of Regulation (EU) 2016/792 of the European Commission (Eurostat) and to be provided to the European Commission (Eurostat) by no more than 85 days after the end of the quarter.

2. Solution

a) Introduction of mandatory electronic communications

The draft law opens up the possibility for notaries and the bodies involved to carry out the exchange of information and documents in the execution of real estate contracts, the judicial approval of notarial transactions and the fulfilment of tax reporting obligations in purely electronic form. The dates from which electronic communication is possible or mandatory should primarily be determined by statutory instrument, with statutory competence regarding transmission by courts and exchanges between notaries and administrative authorities being transferred to the Federal States. With regard to the exchange between notaries and the tax authorities, the statutory competence should lie with the Federal Ministry of Finance. Until 1 January 2027, the scope of application of the ordinances in question may be limited to one direction of communication, to individual bodies affected or to individual circumstances in order to enable binding pilot projects. Secondly, this should create the possibility of a gradual introduction of mandatory electronic communication, so that individual high-performance agencies can be integrated into electronic communication at an earlier stage, and less efficient agencies are given sufficient time to build the necessary digital infrastructure based on the experience gained. A time limit up to 1 January 2028 applies to electronic communication with the tax authorities. In addition, there is no time limit as far as notifications under the Inheritance Tax Act (ErbStG) or the Inheritance Tax Implementation Ordinance (ErbStDV) are concerned.

On the other hand, the determination of the details of the data transmission, the file formats, the content of the files transmitted and the preventive measures should be reserved for a statutory instrument of the Federal Government. This seems necessary in order to establish a uniform national data standard for the exchange of electronic documents. In particular, it should be possible to ensure the use of uniform structure datasets.

These statutory instruments must be drafted in compliance with the requirements of the Act on Equal Opportunities for Persons with Disabilities (BGG). In accordance with Sec. 1(1)(1) BGG, the aim of the Act is to eliminate and prevent discrimination against persons with disabilities, to ensure their equal participation in society and to enable them to lead a self-determined life. These objectives must be actively promoted by authorities as defined by Sec. 1(1a) BGG and by corporations, institutions and foundations under public law that are directly subordinate to the Federal Government, insofar as they implement federal law (Sec. 1(2)(2) BGG), and must be taken into account when planning measures. Digital communications can present barriers for people with disabilities, preventing them from participating on an equal footing. For example, care must be taken to ensure that the technology used for electronic legal communications enables users with visual impairments to operate independently.

The draft law is intended to lay down differentiated provisions for electronic exchange depending on the direction of communication. By means of communication from notaries to the relevant body involved, notaries should generally only be able to submit applications, communications and other documents to the bodies concerned electronically from the moment this is determined by statutory instrument for the relevant body. From that date, the entity falling within the scope of the statutory instrument in question must have the technical infrastructure for receiving and processing structured data and qualified electronically signed documents by a secure means of transmission. However, from that date, notaries would also be obliged to communicate in electronic form. It does not seem sensible to leave the notaries with an option as to whether they would like to communicate by post or in electronic form as before. In addition, notaries now have considerable experience in the field of electronic legal communications, so that they can reasonably be expected to communicate exclusively in electronic form within the scope of this draft law.

Once the legislative amendments provided for in this draft law enter into effect, it should be possible to send certificates and permits as electronic documents via the communication channel between the relevant authority and the notaries, as it can be assumed that the notaries will have the technical conditions in place for receiving and processing structured data and documents with qualified electronic signatures. However, it should be possible for a statutory instrument to set a date from which certain individual bodies (or all of them) are required to submit them in electronic form. In this respect, when enacting the statutory instruments, it should be possible to take into account that certain bodies will have the technical conditions in place for creating and sending structured files and qualified electronically signed documents earlier than others. However electronic communication should be mandatory for the bodies covered by 1 January 2027 at the latest.

b) Use of EGVP infrastructure or ELSTER infrastructure

The exchange between notaries and the bodies involved outside the financial administration should take place via the EGVP [Electronic Court and Administration Mailbox] infrastructure, i.e. in particular the special electronic mailboxes for notaries (beN [besonderes elektronisches Notarpostfach]) and the special electronic mailboxes for authorities (beBPo [besonderes elektronisches Behördenpostfach]). Communication between notaries and the tax authorities should take place via the ELSTER infrastructure. This has the advantage of making use of pre-existing communication infrastructures which have proved their worth since 1 January 2007 in the scope of e-Justice with the commercial registers and to which all entities affected by the communication under this draft law are connected or can join. The time-consuming and costly development of an independent platform for the exchange of data and documents for the execution of real estate contracts, for the judicial approval of notarial legal transactions and for the fulfilment of tax reporting obligations is therefore not necessary. However, additional electronic transmission channels may be prescribed via statutory instrument. Thus the draft law is open to further development.

c) Transmission of structured data

A statutory instrument issued by the Federal Government shall stipulate that certain data must be transmitted in structured form within the scope of application of this draft law. In appropriate cases, i.e. particularly where the document to be transmitted consists solely of singular or binary information (‘application submitted’; ‘approval granted or not granted’), communication should even be possible entirely on the basis of structured datasets. The transmission of an image file containing the image of the paper applications, approvals, certificates or attestations may be waived in such cases, so the XML structure file is not only supportive but also leading. For this purpose, schema files are developed for the individual execution actions in accordance with the data standard ‘XJustiz’, which properly determine the scope of the data to be transmitted depending on the respective execution transaction. The transmission of structured data should allow for automated processing by the bodies involved and reduce the administrative burden.

d) Relationship with the electronic land registry procedure

The benefits of entirely digitalised execution of real estate transactions will only fully materialise once electronic legal communications with the land registry offices are also available. Although this possibility has already been enshrined as a statutory authorisation for the Federal State governments in Sec. 135 of the Land Registry Act (GBO) by way of the Act on the Introduction of electronic legal communications and Electronic Files in Land Registry Proceedings and on the Amendment of Further Land Registry, Register and Cost Regulations of 11 August 2009 (Federal Law GazetteI p. 2713), electronic legal transaction with the land registry offices has only been established (be it entirely or in part) in ten Federal States. In this respect, this draft law may provide an incentive for States without electronic land registry transactions to now introduce them and to promote digitisation in this area as well.

However, it would be worthwhile implementing this draft law even if electronic legal communications with the land registry offices have not yet been established. This is because there is still an interest in accelerating the procedure and reducing the susceptibility to errors in administrative proceedings regardless of the possibility of electronic transmission to the land registry office. From a technical point of view, the electronic official certificates sent can also be used in the analogue land register procedure. Sec. 42(4) of the Notarisation Act (BeurkG) enables notaries to certify printouts and copies of electronic documents so that they can be used in land registry proceedings.

e) Digitisation of notarial data transmission to the expert committees

In order to improve the timely availability of complete datasets on property transactions at the expert committees and the Federal Statistical Office, notaries will in future be obliged to electronically transmit copies of the documents on contracts, offers and acceptances to the valuation committees. This means that the expert committees will receive the necessary documents immediately after notarisation, without having to wait for the time required for execution and postal delivery, as was previously the case. Secondly, notaries will in future be obliged to also transmit certain information contained in the transmitted copies of deeds to the expert committees in the form of structured datasets. This will eliminate the need for the expert committees to collect data a second time from the copies of deeds. This contributes to the simplification and acceleration of the data collection procedure in the expert committees. The structured data can also be automatically further processed if further information needs to be obtained from the parties involved in the real estate contract.

f) Improvement in data feedback to the expert committees

In addition to the digitalisation of the notarial data transmission to the expert committees, further measures are to be provided for in order to ensure the timely availability of complete datasets on property transactions to the expert committees and the Federal Statistical Office. These measures are intended to ensure that the parties to a real estate contract fulfil their obligation to provide information to the expert committee in a timely and complete manner. For this purpose, the minimum scope of the obligation to provide information should be defined. It should also be possible for the respective expert committees to individually define and query further data, which may be necessary for such reasons as regional particularities. In the future, the obligation to provide information should also be accompanied by a time limit.

In order to eliminate any obstacles to the fulfilment of the obligation to provide information to the expert committees by the parties involved, the expert committees should be obliged to provide a digital communication option. In many cases, it is not unwillingness on the part of the parties involved that prevents them from fulfilling their obligation to provide information, but rather the effort involved in completing and submitting the questionnaires in paper form. For that reason, the expert committees should provide a digital questionnaire in the future as a low-threshold option for providing information.

In order to increase the awareness among the parties involved of the obligation to provide information to the expert committee, in the future notaries should be required to point out this obligation to provide information when certifying real estate contracts.

3. Other subjects of the draft law

Without specific reference to real estate transactions, the draft law provides that other tax reporting obligations may also be fulfilled in electronic form. This applies to notifications pursuant to Sec. 34 of the Inheritance Tax Act. In addition, the fulfilment of the tax reporting duties by notaries is no longer to be recorded on the original or a copy of the deed in custody, but in the electronic register of deeds.

III. Executive footprint

The Federal Chamber of Notaries (BNotK), organised as a corporation under public law, contributed significantly to the content of this draft law. This was continuously incorporated into the design of the technical aspects of electronic communication during the drafting process and provided essential information that was taken into account and incorporated into the drafting of the provision. This was done against the background that the BNotK already has experience in providing the technical components for communication between notaries and commercial registers, courts and land registry offices. In addition, the BNotK is responsible on behalf of notaries for introducing the technical components required for the electronic communication between notaries and administrative authorities, courts and municipalities provided for in this draft law.

Since 1 June 2024, the BNotK has had specific influence over the drafting of Secs. 213b(2)(3) Draft Building Code [BauGB-E], Sec. 26(4)(3) Draft Land Transfer Act [GrdstVG-E] and Sec. 13(4)(3) Draft Property Transactions Ordinance [GVO-E]. The BNotK has also provided expertise on the question of what information must be made public under the Federal States’ statutory instrument on the precise name of the recipient. Finally, the German Federal Chamber of Notaries has provided information on the compliance costs expected to be incurred in its area. In the area of the amendments to the Real Property Transfer Tax Act [GrEStG], the Inheritance Tax Act [ErbStG] and the Inheritance Tax Implementation Ordinance [ErbStDV], the German Federal Chamber of Notaries has provided extensive support and influence on the design.

IV. Alternatives

The technical implementation of the objectives described could also be carried out by way of a central platform instead of the EGVP [Electronic Court and Administration Mailbox] and ELSTER infrastructure. However, such a solution would pose numerous problems: the development of such a platform entails significant time and financial expenditures. The costs of developing and operating these systems would have to be assumed by the notaries or the administrative bodies involved, or by the parties to the deed. Considering that this would further increase the ancillary costs for real estate contracts, this solution does not appear to be a top priority. Instead, communication should take place through the existing EGVP and ELSTER infrastructure, which is proven in practice. With regard to the ELSTER infrastructure, the interface for communication via this transmission channel is to be established on the notaries' side. At the same time, it is envisaged that additional electronic transmission channels may be prescribed by statutory instrument. As such, the draft law is open to development and allows for the integration of any future platform solutions.

There is no need for the implementation of the objectives within the framework of the implementation of the Online Access Act (OZG). While some of the items in this draft are also subject to the OZG (Online Access Act), this draft law nevertheless contains provisions on exchanges between specialised participants in certain administrative procedures that take account of the specific practical requirements of these procedures and go beyond the scope of the OZG. Specific provisions are therefore required here.

V. Legislative competence

The legislative competence of the Federal Government is derived from Article 74(1)(1) of the Basic Law (GG) (judicial proceedings, notaries) for the amendments to the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG), the GBO (Land Registry Act) and the BeurkG (Notarisation Act). The legislative competence of the Federal Government for amending the BauGB and the Property Transactions Ordinance (GVO) is derived from Article 74(1)(18) of the Basic Law (urban property transfers). The legislative competence for the GrEStG, ErbStG and ErbStDV is derived from Article 108(5) of the Basic Law insofar as the provisions concern the administrative procedure of the tax authorities, as well as from the second alternative of the second sentence of Article 105(2) GG.

With regard to the Property Transactions Act (GrdstVG), the Federal States have exclusive legislative competence in the field of agricultural land transport, but the Federal Government retains the competence to make adaptations pursuant to Article 125a(1) of the Basic Law. This is limited from a material point of view, so the Federal Government cannot fundamentally redesign the law. As such, only simple individual adaptations or the updating of the applicable law by the Federal Government are still possible. The amendments to the GrdstVG pursued by this draft law are intended to serve the altered circumstances of the digitalisation age and therefore correspond to the objective of the adjustment competence left to the Federal Government.

The Federal Government's authority to amend the Electronic Legal Communications Ordinance (ERVV) derives from the enabling provisions contained in Secs. 213b(4) BauGB-E, Sec. 41a(3) FamFG-E, Sec. 26(7) GrdstVG-E and Sec. 13(7) GVO-E.

VI. Compatibility with European Union law and international treaties

The draft law is compatible with the law of the European Union and with the international treaties concluded by the Federal Republic of Germany.

VII. Impact of the legislation

The provisions of this draft law enable the digitisation of the execution of real estate transactions and the digitisation of other notarial notification requirements.

1. Legal and administrative simplification

The draft law provides for the possibility of completely digitising the previously paper-based communication between notaries and the relevant authorities. This accelerates and simplifies administrative procedures, firstly because the postal period is no longer required and secondly because the planned transmission of structured data eliminates the need to collect data from the bodies concerned a second time.

2. Sustainability aspects

The draft is in line with the guiding principles of the Federal Government on sustainable development in the spirit of the German Sustainability Strategy, which serves the implementation of the UN 2030 Agenda for Sustainable Development.

By enabling digitalisation in the area of execution of real estate contracts, judicial authorisation of notarial legal transactions and the fulfilment of tax reporting obligations, reducing administrative burdens and simplifying procedures, the draft contributes to SDG 16 ‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’, in particular to Goals 16.3 and 16.6, ‘ensure equal access to justice for all’ and ‘build effective, accountable and transparent institutions at all levels’. By facilitating the effective fight against money laundering and financing of terrorism, the draft law contributes to the achievement of Goal 16.4 ‘Significantly reduce illicit financial and arms flows by 2030, strengthen the recovery and return of stolen assets and combat all forms of organized crime’.

By enabling data exchange between notaries and the authorities involved in purely electronic form, the draft law also contributes to digitalisation and thus to SDG 9, ‘Build resilient infrastructure, promote sustainable industrialization, and foster innovation’. In its Goal 9.1, this sustainability goal requires the development of high-quality, reliable, sustainable and resilient infrastructure, with a focus on affordable and equitable access for all. The draft law promotes the achievement of this objective, in particular by enabling secure and timely entries in the land register, which serve the accuracy and clarity of the land register.

The draft thus follows the sustainability principles of the German Sustainability Strategy ‘(1.) Apply sustainable development as a guiding principle at all times and in all decisions’, ‘(5.) Preserve and enhance social cohesion in an open society’ and ‘(6.) Use education, science and innovation as drivers of sustainable development’.

3. Budgetary expenditure without compliance costs

Neither expenditure nor revenue is attributable to the budget of the Federal Government. There will be no additional expenditure or revenue for Federal State and municipal budgets either. Insofar as costs are incurred for the provision of technical systems for electronic communications, it is assumed that these are costs that are incurred independently of the provisions of this draft law (costs that would have been incurred anyway). No costs were reported that would not already be incurred by the Federal States and municipal authorities due to the adaptation to technical innovations.

4. Compliance costs

a) Compliance costs for citizens

Notaries are involved in the execution of real estate contracts on behalf of the contracting parties. In doing so, notaries apply to the authorities and courts for various permits and notify certain authorities of the transactions. The notaries charge citizens for the expenses incurred in this regard as out-of-pocket expenses in accordance with Part 3, Section 2 of the Schedule of Costs for the Court and Notary Fees Act (KV GNotKG), so this results in compliance costs for citizens in the form of material costs for the use of third-party services.

Among other things, this draft law provides that notaries will in future submit eight permit applications and four notifications in electronic form (see table). This affects the amount of the expenses and thus the compliance costs.

Requirement	Designation	Number of cases* (total)	Citizens	
			Number of cases**	Material costs (in thousands of EUR)
Sec. 22(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (preservation of areas with tourism functions)	1 000	750	-1.5
Sec. 28(1)(1) BauGB in conjunction with Sec. 213a(1)(2) BauGB-E	Notification of the content of the purchase contract (pre-emption rights of the municipality)	640 000	480 000	-960
Sec. 51(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (reallocation area – implementation period)	100	75	-0.2
Sec. 109(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (expropriation proceedings)	15	11	-0.0
Sec. 145(1) BauGB-E in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (redevelopment areas)	110 000	82 500	-165.0
Sec. 173(1) BauGB-E in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (preservation statute)	4 500	3 375	-6.8
Sec. 195(1) BauGB in conjunction with Sec. 213a(1)(3) BauGB-E	Transmission of contractual documents and data (purchase price collection)	1 000 000	750 000	-1 500
Sec. 250(1) and (6) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (areas with tight housing markets)	5 000	3 750	-7.5
Sec. 18 GrEStG-E in conjunction with Sec. 22a(1) GrEStG-E	Transmission of notification of sale	1 000 000	750 000	-1 500
Sec. 34(1) ErbStG-E	Notification of inheritance tax-related deeds, certificates and writs (real estate contracts)	250 000	250 000	-500
Sec. 3 GrdstVG in conjunction with Sec. 25(1) GrdstVG-E	Permit application (agricultural and forestry land as well as certain moor areas and wasteland)	55 000	41 250	-82.5
Sec. 1(2) GVO in conjunction with Sec. 12(1) GVO-E	Property transfer permit application	127 500	95 625	-191.3
Total		**3 193 115**	**2 457 336**	**-4 914.7**

* The derivation of the case numbers is described in detail in Section 4c.
** Around 75 per cent of all real estate contracts are concluded for citizens.

Around one million real estate contracts are notarised annually (cf. Real Estate Market Report Germany 2023 of the expert committees in the Federal Republic of Germany, p. 20, years 2015 to 2022). Out of a total of around 3.2 million permit and notification procedures (see Section 4c for details), approximately 2.5 million (75 %) are assumed to be carried out on behalf of citizens. Only in the case of notifications of inheritance tax-related deeds, certificates and orders (real estate contracts) can it be assumed that all procedures are attributable to citizens.

Costs for the flat-rate document fee and costs for postal and telecommunications services are reduced in each of these procedures. Assuming that the copy of a real estate contract, including the documents required for execution, is 15 pages on average, electronic communications save costs under Number 32001 KV GNotKG in the amount of EUR 2.25 per permit and notification procedure. In addition, electronic communication saves expenses under Number 32004 KV GNotKG for postal services in the average amount of EUR 2.50 per approval and notification procedure, but only if the fees for postal and telecommunications services are actually claimed in full and not as a flat rate under Number 32005 KV GNotKG. In order to calculate the cost reduction, it is assumed that in half of the cases the charges for postal and telecommunications services are charged in full or as a lump sum. This saving also applies in cases where electronic legal communications with the land registry office are permitted. This leads to total savings of EUR 3.50 per case. This is to be offset by the expenses referred to in Number 32002 of the KV GNotKG as a flat-rate document fee for transferring files stored in electronic form or making them available for retrieval instead of the documents referred to in Number 32000 and 32001 of the KV GNotKG. In turn, these expenses are incurred for the electronic transmission of the documents. A flat-rate amount of EUR 1.50 shall be charged for each file, regardless of its size, and the total amount of the documents supplied, provided or transferred in one operation on the same data medium may not exceed a total of EUR 5. If electronic copies of contracts are transmitted, the expenses shall be reimbursed accordingly. It can be assumed that the comparative calculation in Number 32002 KV GNotKG does not apply because the underlying deed must already be converted into electronic form for the electronic deed collection due to a legal obligation.

As a result, the cost per transmission is reduced by two euro across all eight permit and four notification procedures, reducing the compliance costs for citizens by a total of around 4.9 million euro.

In addition, notaries also act on behalf of citizens in matters other than real estate contracts. This draft law introduces the possibility of electronic legal communications in connection with the obligation to notify inheritance-related documents. Assuming that all 20,000 certifications (see Section 4c for details) are attributable to citizens covered by the standard and that expenses of two euro per case are saved, the compliance costs arising from this requirement are reduced by around EUR 40 000.

Requirement	Designation	Number of cases* (total)	Citizens	
			Number of cases	Material costs (in thousands of EUR)
Sec. 34(1) and Secs. 7 and 8 ErbStDV	Processing of notifications of inheritance tax-related deeds, certificates and writs (gifts, special-purpose grants)	20 000	20 000	-40

* The derivation of the case numbers is described in detail in Section 4c.

Finally, the proposed legislation reduces the burden on citizens by reducing the cost of funding. Since these are indirect effects (cf. Guide, p. 6), these monetary effects are not to be attributed to compliance costs, but to other costs (cf. Section 5).

b) Businesses

As with citizens, the compliance burden on businesses is reduced by the fact that the draft law will reduce the expenses incurred by the notaries commissioned to execute real estate contracts.

It is assumed that 25 per cent of the real estate contracts are related to a professional activity, whether commercial or self-employed. Therefore, of the approximately 2.9 million relevant permit and notification procedures (see table), around 734 000 are carried out on behalf of businesses. In each of these procedures, the average expenditure is reduced by two euro per case (see Section 4a for details), resulting in a total reduction in compliance costs for businesses of around 1.5 million euro across all permit and notification procedures.

Requirement	Designation	Number of cases (total)	Businesses	
			Number of cases	Material costs (in thousands of EUR)
Sec. 22(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Application for a permit (preservation of areas with tourism functions)	1 000	250	-0.5
Sec. 28(1)(1) BauGB in conjunction with Sec. 213a(1)(2) BauGB-E	Notification of the content of the purchase contract (pre-emption rights of the municipality)	640 000	160 000	-320.0
Sec. 51(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Permit application (reallocation area – implementation period)	100	25	-0.1
Sec. 109(1) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Permit application (expropriation proceedings)	15	4	-0.0
Sec. 145(1) BauGB-E in conjunction with Sec. 213a(1)(1) BauGB-E	Permit application (redevelopment areas)	110 000	27 500	-55.0
Sec. 173(1) BauGB-E in conjunction with Sec. 213a(1)(1) BauGB-E	Permit application (preservation statute)	4 500	1 125	-2.3
Sec. 195(1) BauGB in conjunction with Sec. 213a(1)(3)	Transmission of contractual documents and data (purchase price collection)	1 000 000	250 000	-500
Sec. 250(1) and (6) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E	Permit application (areas with tight housing markets)	5 000	1 250	-2.5
Sec. 18 GrEStG-E in conjunction with Sec. 22a(1) GrEStG-E	Transmission of notification of sale	1 000 000	250 000	-500.0
Sec. 3 GrdstVG in conjunction with Sec. 25(1) GrdstVG-E	Permit application (agricultural and forestry land as well as certain moor areas and wasteland)	55 000	13 750	-27.5
Sec. 1(2) GVO in conjunction with Sec. 12(1) GVO-E	Property transfer permit application	127 500	31 875	-63.8
Total		**2 943 115**	**735 779**	**-1 471.6**

* The derivation of the case numbers is described in detail in Section 4c.
** Around 25 per cent of all real estate contracts are executed for commercial purposes.

All the requirements considered constitute information duties, so that the relief is entirely attributable to the administrative costs. This saving is an ‘out’ as defined by the Federal Government’s ‘one in, one out’ rule.

In addition, the draft law reduces the burden on businesses by reducing the cost of financing. Since these are indirect effects (cf. Guide, p. 6), these monetary effects are not to be attributed to compliance costs, but to other costs (cf. Section 5).

c) Administration

Among other things, the proposed regulatory arrangement will introduce and expand electronic legal communications between notaries, authorities and courts in connection with the execution of real estate contracts. This results in changes in expenditure in the form of the expansion of IT infrastructure and training (Requirements 1 and 2) as well as in the form of changes in personnel and material costs in the processing of eight permit procedures and four notifiable procedures (Requirements 3 to 14). These changes in case processing are due to the fact that the administrative authorities involved no longer need to collect the necessary data from the documents submitted by notaries and that, particularly in the case of electronic file management, data can be processed directly and more efficiently in the specialised applications without media discontinuity. In addition, in the case of administrative acts, postage costs are eliminated with the approval authorities and with the notifiable authorities. Furthermore, isolated processes at notaries, courts, authorities and legal entities under public law are affected by this expansion of electronic legal communications (Requirements 15 and 16).

In connection with the execution of real estate contracts, the draft regulation introduces further requirements to increase the effectiveness of data collection during follow-up surveys by expert committees (Requirements 17 and 18).

Finally, the implementation burden of the administration changes as a result of the introduction or development of e-Justice in matters other than real estate contracts (Requirements 19 and 20).

aa) Requirements relating to the execution of real estate assets

Requirement 1: Adaptations of the IT infrastructure for the execution of real estate contracts (notaries); Secs. 213a(1) BauGB-E, Sec. 22a GrEStG-E, Sec. 34 ErbStG-E, Sec. 25 GrdstVG-E, Sec. 12 GVO-E

Change in annual compliance costs for the Federal Government:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1	0	0	3 360 000	0	3 360
Change in compliance costs (in thousands of EUR)					3 360

One-off compliance costs for the Federal Government:

Number of cases	Time requirement per case (in hours)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1	0	0	16 800 000	0	16 800
Compliance costs (in thousands of EUR)					16 800

One-off compliance costs of the Federal States:

Number of cases	Time requirement per case (in hours)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
6 346	1	69.30	0	440	0
12 692	1	30.50	0	387	0
Compliance costs (in thousands of EUR)					827

Notaries must apply for various permits and comply with notification requirements on a case-by-case basis when executing real estate contracts. Sec. 213a(1) BauGB-E, Sec. 22a of the draft law Real Property Transfer Tax Act (GrEStG-E), Sec. 34 of the draft law Inheritance and Gift Tax Act (ErbStG-E), Sec. 25 of the draft law Property Transactions Act (GrdstVG-E) and Sec. 12 of the draft law Property Transactions Ordinance (GVO-E) introduce electronic legal communications in the various permit and notification procedures. This means that notaries will no longer send the applications and notifications required for the execution of a real estate contract in paper form by post, but in electronic form using structured XML files.

The special electronic notary mailbox already requires and enables notaries to participate in electronic legal communications with land registry offices, registration courts or other notaries, lawyers and authorities. XML datasets are sometimes already being transmitted in the XJustiz specialised format at present with the support of the XNP/XNotar specialised application provided by the German Federal Chamber of Notaries. The expansion of electronic legal communications provided for in the draft law to the total of twelve permit and notification procedures can be implemented by extending the XNotar specialised application accordingly by the operating company – a subsidiary of the German Federal Chamber of Notaries. In this context, new data fields can also be created in accordance with Sec. 18(4) of the draft law Electronic Legal Transactions Ordinance (ERVV-E).

For the necessary programming work and the provision and follow-up of the necessary extensions, the subsidiary of the Federal Chamber of Notaries incurs a one-off compliance cost estimated at EUR 16.8 million. Of this amount, EUR 825 000 relates to the implementation of ERiC/ELSTER to enable communication with the financial administration. This one-off compliance cost consists of IT expenditure of EUR 6.9 million, staff expenditure of EUR 4.9 million, administrative expenditure of EUR 850 000 and financing costs of EUR 1.4 million. The compliance costs are spread over the years 2023 to 2028. In addition, a risk premium of 20 percent, nominally EUR 2.8 million, is to be expected. In addition, from 2028 onwards, an estimated 20 % of the development costs will be incurred each year, i.e. EUR 3.4 million per year, recurring implementation costs for ongoing maintenance and the necessary further development of specialised application. As a result, the fee to be paid by notaries for the XNotar specialised application had to be increased.

There are no other costs for upgrading the IT infrastructure, as notaries already participate in electronic legal communications in connection with other procedures. However, one-off staff costs are incurred for the qualification of the persons employed by notaries who dispatch the execution documents, who will have to familiarise themselves with the changes in the specialised application. In view of the large number of cases, it is assumed that two persons on average are involved in these tasks for each of the 6 346 notaries. It is further assumed that the time required for this training amounts to one hour (approach according to Annex VIII of the Guide; training and education at medium to high complexity level), which must be provided by both notaries and the two employees.

At an hourly wage rate of EUR 30.50 or EUR 69.30 (see Annex VIII of the Guide for Federal States, middle and upper grade), one-off staff costs for advanced training courses amount to a total of EUR 827 000.

Requirement 2: Adaptations of the IT infrastructure for the execution of real estate contracts (authorities and courts); Secs. 213a(1) BauGB-E, Sec. 22a GrEStG-E, Sec. 34 ErbStG-E, Sec. 25 GrdstVG-E, Sec. 12 GVO-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
11 187	0	0	150	0	1 678
688	0	0	150	0	103
Change in compliance costs (in thousands of EUR)					1 781

b) Compliance cost for the Federal States and municipalities:

Number of cases	Time requirement per case (in hours)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
11 687	60	70.40	0	49 366	0
980	60	69.30	0	4 075	0
11 187	120	70.40	0	94 508	0
688	120	69.30	0	5 721	0
16	0	0	46 323	0	741
11 187	0	0	300	0	3 356
688	0	0	300	0	206
11 687	4.1	25.50	0	1 222	0
980	4.5	30.50	0	135	0
11 187	4	25.50	0	1 141	0
688	4	30.50	0	84	0
Compliance costs (in thousands of EUR)					160 555

With the introduction and expansion of electronic legal communications in the execution of real estate contracts (see Requirement 1), authorities and courts will in future receive applications to be processed by notaries and the necessary data in electronic and structured form.

Of these, a total of 11 687 municipal authorities (of which: 10 787 municipalities, 106 independent cities and 294 counties as municipal authorities, as well as around 500 expert committees) and a total of 980 Federal State authorities (of which: 688 municipal courts) are affected.

The expansion of electronic legal communications will require one-off personnel expenditure in all of the above-mentioned authorities and courts for the upgrading of technical systems, in particular for the creation or installation of interfaces for the transfer of structured data. This is assumed to be 60 hours on average per authority or court. In addition, with the exception of the expert committees and the competent tax offices, one-off staff costs are incurred for the creation and installation of the necessary data processing systems that enable the authorities and courts (11 187 municipal and 688 Federal State authorities) to create structured data in XML file format and provide a qualified electronic signature. This effort is assumed to be 120 hours on average per authority.

Assuming that the authority's own IT staff carry out the necessary work, one-off staff costs for adjustments to the IT infrastructure of EUR 143.9 million for the municipalities and EUR 9.8 million for the Federal States will be incurred at a wage rate of EUR 70.40 and EUR 69.30 per hour (cf. Annex IX of the Guide for municipalities and Federal States, upper grade).

Enabling the electronic transmission of the clearance certificate will result in a one-off compliance cost of EUR 741 175 for the IT department of the financial administration of the Federal States.

Additional one-off material expenses arise in connection with the purchase of card readers, which are required to apply qualified electronic signatures to permits and certificates using chip cards. It is assumed that in the document-issuing 11 187 municipal authorities and 688 Federal State authorities, on average, three persons involved in the production of permits and certificates in structured form will be equipped with a card reader. The average cost of a card reader is estimated at EUR 100 (see https://zertifizierungsstelle.bnotk.de/produkte/alle-produkte), resulting in one-off material costs of EUR 3.4 million for municipalities and EUR 206 000 for the Federal States.

In this context, recurring annual material costs also arise from the fact that signature cards must be allocated to the persons employed in the respective office who are responsible for creating qualified electronically signed approvals and certificates. The annual recurring costs for such cards amount to an average of EUR 50 (see https://zertifizierungsstelle.bnotk.de/produkte/alle-produkte), so that an assumed number of three signature cards per participating office incurs annually recurring expenses of a total of EUR 1.8 million.

Finally, it is assumed that middle-grade civil servants will need to be trained on a one-off basis so that they can handle the expanded IT infrastructure and receive structured data from notaries. Due to the relatively high number of cases per position, three persons are assumed for the expert committees, and due to the relatively low number of cases per position, two persons are assumed for the remaining positions. Two hours per person are estimated (based on Annex VIII of the Guide; advanced training courses of medium to high complexity). This means that Federal State authorities spend an average of 4.5 working hours on training, while municipal authorities spend an average of around 4.1 working hours.

In addition, in the 11 187 municipal authorities and 688 Federal State authorities (excluding tax offices and expert committees) who send documents, two middle-service staff must be qualified once in order to be able to produce permits and certificates as structured XML files. A time expenditure of two hours per person is estimated for this. In the long term, it is assumed that the necessary IT skills is being taught as part of regular training and induction, so that no annual compliance costs will be incurred.

At an hourly wage rate of EUR 25.50 or EUR 30.50 (see Annex IX of the Guide for municipalities and Federal States, middle grade), one-off staff costs for training amount to EUR 2.4 million for municipalities and EUR 218 000 for Federal States.

In total, the requirement results in one-off compliance costs of EUR 160.6 million, of which EUR 149.6 million for the municipalities and EUR 11 million for the Federal States.

Requirement 3: Processing of an application for a permit (protection of areas with tourism functions); Sec. 22(1) BauGB in conjunction with Sec. 213a BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1 000	-20	25.50	0	-8.5	0
1 000	0	0	-2	0	-2
Change in compliance costs (in thousands of EUR)				-11	

In certain cases, notaries must apply to the competent authority of the municipality for a permit pursuant to Sec. 22(1)(1) BauGB when executing real estate contracts. In the future, such permits are to be applied for and issued in electronic form in accordance with Sec. 213a(1)(1) and (3)(1)(1) BauGB-E.

In the absence of official or unofficial statistics on the number of relevant permit procedures, the number of cases is estimated as follows. It is estimated that one in ten municipalities (around 1 000) has a tourism statute. Relatively few real estate contracts require approval in these municipalities, as properties outside areas with tourist functions and transactions involving freehold flats are exempt. For the sake of simplicity, it is assumed that one permit application per year will be submitted to the municipalities concerned.

In these 1 000 cases, the time required by the approval authorities to process the applications is reduced because, due to the elimination of media discontinuity, the data transmitted in structured form by notaries can be processed directly without the need for renewed collection based on the notarial deed or the notarial letter sent by post to the authority. It is assumed that the processing time per case will be reduced by 20 minutes (approach according to Annex VIII of the Guide; proportion of the standard activity ‘Content testing, collecting data’ arising from the collection of data in the simple to medium level of complexity).

At a wage rate of EUR 25.50 per hour (see Annex IX to the Guide for municipalities, middle grade), the total annual staff costs are reduced by a total of EUR 9 000.

Additional annual savings result from the fact that the permits no longer have to be drawn up in paper form and sent by post.

It is assumed that a response of this kind comprises an average of two pages, which, according to the relevant provisions of the court and administrative costs acts, corresponds to an expense of EUR 1 in each case. An expense of EUR 1 is also assumed for postage and shipping material. In total, this will lead to annual savings of EUR 2 000.

Overall, the requirement reduces annual compliance costs for municipalities by around EUR 11 000.

Requirement 4: Processing of the notification of the content of the purchase contract (pre-emption rights of the municipality); Sec. 28(1)(1) BauGB in conjunction with Sec. 213a(1)(2) BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
600 000	-20	25.50	-2	-5 100	-1 200
Change in compliance costs (in thousands of EUR)				-6 300	

Upon execution of real estate contracts, the notaries shall submit a notification in accordance with Sec. 28(1)(1) BauGB to the competent municipal authority, except in cases involving the establishment and transfer of residential property ownership and hereditary building rights. In the future, such notifications and the municipalities' responses to them are to be transmitted in electronic form in accordance with Sec. 213a(1)(2) BauGB-E.

Around 630 000 real estate contracts in which freehold flats are not the subject of the contract are notarised every year (see Real Estate Market Report Germany 2021, p. 22 and 34 and Real Estate Market Report Germany 2023, p. 20 and 32). Furthermore, it can be assumed that about 5 per cent of all other transactions relate to heritable building rights (Winkler/Schlögel, Erbbaurecht, 8th edition 2025, Sec. 1 Recital 15). Thus, a total number of real estate contracts subject to notification can be assumed to be 600 000.

With a reduction in the case-related processing time for applications by 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipal authorities are reduced by around EUR 6.3 million as a result of the requirement.

Requirement 5: Processing of an application for approval (reallocation area – implementation period); Sec. 51(1) BauGB in conjunction with Sec. 213a BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
100	-20	25.50	0	-1.0	0
67	0	0	-2	0	-0.1
Change in compliance costs (in thousands of EUR)				-1.1	

In certain cases, notaries must apply to the competent reallocation office for a permit pursuant to Sec. 51(1) BauGB when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 213a(1)(1) and (4)(1)(1) BauGB-E.

Injunctions in reallocation areas are relatively uncommon. It is assumed that 100 permits are requested per year and that the rejection rate is 33%, so notifications from authorities are sent to notaries in 67 cases.

With a reduction in the case-related processing time for applications by 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipalities are reduced by around EUR 1 100 as a result of the requirement.

Requirement 6: Processing of an application for approval (expropriation procedure); Sec. 109(1) BauGB in conjunction with Sec. 213a BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
15	-20	25.50	0	-0.1	0
10	0	0	-2	0	-0
Change in compliance costs (in thousands of EUR)				-0.1	

In certain cases, notaries must apply to the competent expropriation authority for a permit under Sec. 109(1) BauGB when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 213a(1)(1) and (4)(1)(1) BauGB-E.

Injunctions in connection with expropriation procedures are rare. Between 2009 and 2020, there were a total of 1 647 expropriation procedures in Germany, i.e. an average of 150 per year. It is assumed that 15 permits are requested per year and that the rejection rate is 33%, so notifications from authorities are sent to notaries in 10 cases.

With a reduction in the case-related processing time for applications by 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipal authorities are reduced by around EUR 130 as a result of the requirement.

Requirement 7: Processing of an application for approval (redevelopment areas); Sec. 144(1) or (2) BauGB in conjunction with Sec. 213a BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
110 000	-20	25.50	0	-935	0
67 000	0	0	-2	0	-134
Change in compliance costs (in thousands of EUR)				-1 069	

In certain cases, notaries must apply to the competent authority of the municipality for a permit pursuant to Sec. 144(1) or (2) BauGB when executing real estate contracts. Under Sec. 213a(1)(1) and (3)(1)(1) BauGB-E, such permits should in future be able to be applied for and granted electronically.

In the absence of official or unofficial statistics on the number of relevant permit procedures, the number of cases is estimated as follows. It is assumed that there is one redevelopment area per municipality on average. Assuming that ten transactions per redevelopment area are carried out annually in accordance with Sec. 144(2) BauGB (sales, encumbrances), the total number of permits applied for is around 110 000. Assuming a rejection rate of 33 per cent, the approval authorities issue permits and negative certificates to notaries in around 67 000 cases per year. The cases in which a permit is required under Sec. 144(1) BauGB are typically cases in which no notary is involved.

With a reduction in the case-related processing time for applications by 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see requirement 3 for details), the annual compliance costs for municipal authorities are reduced by around EUR 1.1 million as a result of the requirement.

Requirement 8: Processing of an application for approval (preservation statute); Sec. 172(1) BauGB in conjunction with Sec. 213a BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 500	-20	25.50	0	-38	0
3 000	0	0	-2	0	-6.0
Change in compliance costs (in thousands of EUR)					-44

In certain cases, notaries must apply to the competent authority of the municipality for a permit pursuant to Sec. 172(1) BauGB when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 213a(1)(1) and (4)(1)(1) BauGB-E.

Ordinances to that effect – under Federal State law or pursuant to Sec. 250(7) BauGB – exist in only four Federal States. According to the German Notary Institute [Deutsches Notarinstitut – DNotI], around 90 municipalities have adopted preservation statutes (see https://www.dnoti.de/fileadmin/user_upload/Arbeitshilfen/Immobilienrecht/Uebersicht_Erhaltungssatzung.pdf). It is assumed that 50 conversions as per Sec. 172 BauGB will be carried out in each of these municipalities per year and that the rejection rate is 33 per cent, so that a total of 4 500 permit applications will be processed and around 3 000 notifications will be transmitted from authorities to notaries.

With a reduction in the case-related processing time for applications by 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipalities are reduced by around EUR 44 000 in total as a result of the requirement.

Requirement 9: Processing of the transmitted contractual documents and data (purchase price collection); Sec. 195(1) BauGB in conjunction with Sec. 213a(1)(3) BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1 000 000	-5	25.50	0	-2 125	0
Change in compliance costs (in thousands of EUR)					-2 125

Notaries are required to submit contract documents and data to expert committees when executing real estate contracts under Sec. 195(1) BauGB-E. In the future, it should be possible to make such transmissions in electronic form in accordance with Sec. 213a(1)(3) BauGB-E.

Around one million real estate contracts are notarised annually (cf. Real Estate Market Report Germany 2023, p. 20). In such cases, the time required by the expert committees to process the notifications is assumed to be reduced by 5 minutes per case. At a wage rate of EUR 25.50 per hour, the total annual staff costs are reduced by a total of EUR 2 125 million.

Requirement 10: Processing of a permit application (areas with tight housing markets); Sec. 250(1) and (6) BauGB in conjunction with Sec. 213a(1)(1) BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
5 000	-20	25.50	0	-43	0
3 300	0	0	-2	0	-7
Change in compliance costs (in thousands of EUR)				-50	

In certain cases, notaries must apply for a permit pursuant to Sec. 250(1) or (6) BauGB to the competent authority under Sec. 250(2)(1) when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 213a(1)(1) and (4)(1)(1) BauGB-E.

No official or unofficial statistics are available on the number of permit procedures for real estate transactions in areas with tight housing markets. They are not the norm and occur in large cities to a limited extent. It can be assumed that no more than 5,000 permit applications are submitted each year and, assuming a rejection rate of 33 per cent, around 3,300 permits and negative certificates are issued and sent by the authorities to notaries.

With a reduction in the case-related processing time for applications of 20 minutes, a wage rate of EUR 25.50 per hour and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipal authorities are reduced by a total of around EUR 50 000 as a result of the requirement.

Requirement 11: Processing of notices of sale and clearance certificates; Secs. 22(2), 18(1) and (2) GrEStG-E in conjunction with Sec. 22a GrEStG-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1 051 500	-2	35.58	0	-1 247	0
1 000 000	0	0	-1	0	-1 000
Change in compliance costs (in thousands of EUR)				-2 247	

When executing real estate contracts in accordance with Sec. 18(1) GrEStG-E, notaries send a notice of sale to the competent tax offices, on the basis of which the latter issue a clearance certificate in accordance with Sec. 22(2) GrEStG if there are no tax objections. Sec. 22a GrEStG-E provides that a statutory instrument of the Federal Ministry of Finance may specify details of the electronic transmission of the notification of sale and of the clearance certificate in particular.

In addition to the one million real estate contracts, transfers of shares from limited liability companies (GmbH) that hold at least one real estate must be taken into account. In the absence of statistics on this, it is assumed for the sake of simplicity that the number of shares of GmbHs and other companies certified by notaries corresponds to the number of annual start-ups of GmbHs (around 103 000, Federal Statistical Office, Statistics on Companies and Workplaces – Trade Reports, 2023) and that real estate is held in around half of the cases. It is also assumed that the number of sales for consideration pursuant to Sec. 3(3) to (7) of the Real Property Transfer Tax Act (GrEStG) is statistically insignificant and that the clearance certificate will be issued in cases requiring approval, so that a total of 1 051 500 notices of sale will be processed and – since none are issued for share transfers – 1 000 000 clearance certificates will be sent by the tax offices to notaries.

Assuming that the data from the electronic notice of disposal (such as control notifications) is displayed in the relevant work area in the order overview and does not first have to be assigned to the work area by the post office, a time saving of two minutes can be expected. The technical processing remains unchanged. The personnel compliance costs are reduced by two minutes in 1 051 500 thanks due to media-free processing at an average staff cost of EUR 35.58 per hour. In this context, it is assumed that 60 per cent of the work in the land transfer tax offices is carried out by middle-grade civil servants and 40 per cent by senior civil servants. Annual staff costs are reduced by EUR 1.2 million.

If the clearance certificate is exclusively sent in electronic form in accordance with Sec. 22(2) GrEStG and Sec. 22a GrEStG-E and the paper certificate is waived, the annual material costs can also be reduced by EUR 1 million.

Overall, the requirement reduces annual compliance costs for the Federal States by around EUR 2.2 million.

Requirement 12: Processing of the notification of deeds, certificates and writs relevant to inheritance and gift tax (real estate contracts); Sec. 34(1) ErbStG-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
250 000	-6	34.31	0	-858	0
Change in compliance costs (in thousands of EUR)				-858	

In certain cases, notaries must submit a notification to the competent tax office in accordance with Sec. 34(1) of the Inheritance Tax Act (ErbStG) when executing real estate contracts. Such notifications may be made in electronic form in the future.

According to the Federal Statistical Office, there are around 33 000 taxable gifts per year with a value greater than EUR 0 (see Federal Statistical Office, Statistics on Finance and Taxation – Inheritance and Gift Tax, averages for 2015 to 2023). These statistics do not cover all transfers of assets because gifts within the tax allowances are not included, among other things. Assuming that only one in ten gifts is subject to gift tax and that real estate is affected in three out of four cases, it can be assumed that around 250 000 gifts will be notarised and reported to the tax offices competent for inheritance tax.

Since the electronic transmission eliminates the personal manual recording of paper-based data, the processing time per case in the tax office is expected to be reduced by a total of six minutes. Nothing about the technical processing changes.

In the inheritance and gift tax offices, 70 per cent of the tasks are carried out by middle grade civil servants and 30 per cent by upper grade civil servants, resulting in an average staff cost of EUR 34.31 per hour. The total annual compliance costs related to personnel are reduced by EUR 858 000.

Requirement 13: Processing of a permit application (agricultural and forestry land as well as certain moor areas and wasteland land); Sec. 3 GrdstVG in conjunction with Sec. 25 GrdstVG-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
55 000	-20	25.50	0	-468	0
37 000	0	0	-2	0	-74
Change in compliance costs (in thousands of EUR)				-542	

In certain cases, notaries must apply to the competent authority of the Federal States for a permit under Sec. 3 GrdstVG when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 25 GrdstVG-E.

Every year, around 110 000 real estate contracts are notarised in which agricultural or forestry property is the subject of the contract (see Real Estate Market Report Germany 2021, p. 34). However, only certain transactions (e.g. land, farmyards) are covered by the permit requirement. It is assumed that a permit will be required in 50 per cent of cases and that the rejection rate will be 33 per cent, meaning that a total of around 55 000 permit applications will be processed and 37 000 permits and negative certificates will be sent to notaries.

In these cases, the approval authorities are expected to reduce the time required to process notifications by 20 minutes per case (see Requirement 3). At a wage rate of EUR 25.50 per hour, the total annual compliance costs are reduced by around EUR 542 000.

Requirement 14: Processing of an application for the issuance of a property transaction permit; Sec. 1(2) GVO in conjunction with Sec. 12 GVO-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
127 500	-20	25.50	-2	-1 084	-255
Change in compliance costs (in thousands of EUR)				-1 339	

In certain cases, notaries must apply to the competent authority for a property transaction permit pursuant to Sec. 1(2) GVO when executing real estate contracts. In the future, it should be possible to apply for and issue such permits in electronic form in accordance with Sec. 12 GVO-E.

There are no official or unofficial statistics on the number of cases in which the conditions for exemption as defined by Sec. 2(1)(2) GVO are not met, so it will be necessary to apply for a permit. Considering that an estimated 3.5 million residential property transactions have taken place in the new Federal States over the past 30 years – in 2020, there were around 110 000 such transactions (see Real Estate Market Report Germany 2021, p. 35) – and that in 2020 there were around 9 million flats in residential and non-residential buildings in the new Federal States (Federal Statistical Office, statistics on housing stock), the proportion of properties that have been traded at least once since 1990 is no more than 31 per cent. Because of the possibility of multiple sales of the same property and the other conditions exempting the application of Sec. 2(1)(2) GVO, it is assumed that only around 25 % of all real estate transactions in the new Federal States do not have to apply for a permit. Since around 170 000 real estate contracts are notarised each year in which a property in the new Federal States is the subject of the contract (see Real Estate Market Report Germany 2021, p. 24), around 127 500 applications per year are expected in the medium term.

With a reduction in the case-related processing time for applications of 20 minutes, an hourly wage rate of EUR 25.50 and a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the annual compliance costs for municipal authorities are reduced by a total of around EUR 1.3 million as a result of the requirement.

Requirement 15: Notaries shall note the fulfilment of tax reporting obligations in the register of deeds; Sec. 18(4) GrEStG-E

b) Compliance cost for the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
6 346	30	69.30	0	220	0
12 692	30	30.50	0	194	0
Compliance costs (in thousands of EUR)				413	

With the proposed amendments to Sec. 18(4) GrEStG-E, notaries are no longer supposed to record the fulfilment of tax reporting duties and the sending of copies thereof on the original deed, but to make a corresponding entry in the register of deeds.

One-off staff costs are incurred in connection with the changeover and the necessary training of the persons involved in this task (see Requirement 1 for details) – all 6 346 notaries and two employees per notary's office. Assuming a personal time expenditure of 30 minutes and a wage rate of EUR 30.50 or EUR 69.30, this requirement results in a one-time compliance cost of EUR 413 000.

No annual staff costs are incurred for this requirement. It is assumed that the time required for making a note on the original deed corresponds to the time required for making a corresponding entry in the register of deeds.

Requirement 16: Transmission of a decision on the approval of a legal transaction by a family, guardianship, probate or agricultural court; Secs. 1643(1) and 1799(1), each in conjunction with Sec. 1850(1), (2), (4) and (5), Sec. 1833(3)(4) and Sec. 1962 BGB in conjunction with Sec. 41a FamFG-E or Sec. 2(1) GrdstVG in conjunction with Sec. 17(3) HöfeO in conjunction with Sec. 9 of the Act on Judicial Proceedings in Agricultural Matters in conjunction with Sec. 41a FamfG-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in	Hourly pay (in euro)	Material costs per case (in	Staff costs (in thousands of	Material costs (in thousands of

	minutes)		euro)	EUR)	EUR)
44 000	0	0	-2	0	-88
7	0	0	5 000	0	35
Change in compliance costs (in thousands of EUR)					-53

One-off compliance costs of the Federal States:

Number of cases	Time requirement per case (in hours)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
7	0	0	50 000	0	350 000
Compliance costs (in thousands of EUR)					350 000

In certain family law cases, when executing real estate contracts, notaries must apply for a permit under Secs. 1643(1), 1799(1), respectively in conjunction with Sec. 1850(1), (2), (4) and (5), Sec. 1833(3)(4) and 1962 BGB to the competent family, guardianship or probate court. When executing real estate contracts for agricultural and forestry land and, where applicable, for moorland and wasteland, notaries must obtain approval from the agricultural court within the scope of application of the HöfeO in accordance with Sec. 2(1) GrdstVG in conjunction with Sec. 17(3) GrdstVG. Under Sec. 41a of the draft Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG-E), the decision may be announced to notaries as a judicial electronic document.

There are no official statistics available on the number of relevant permit procedures. Assuming that each notary applies for seven permits per year on average, it is estimated that around 44 000 applications are to be processed each year.

With a reduction in case-related material costs of EUR 2 per transmission (see Requirement 3 for details), the requirement reduces the annual compliance costs for the courts by a total of around EUR 88 000.

In addition, as a result of the implementation of the technical requirements of Sec. 41a(1)(2) FamFG-E, the Federal States incur one-off and ongoing implementation costs for the qualified electronic signature of the courts. The new legislative arrangement requires all judges of the family, probate, guardianship and agricultural courts to be equipped with a new qualified electronic signature with a court-related authority attribute. Ongoing compliance costs are also likely to arise for the management of qualified electronic signatures, for example in cases of delegations or changes of office within the judiciary of individual Federal States, where no new application would have been necessary prior to the change in the law if the previous signature had continued to be used.

At present, the costs of the changes described above can only be estimated roughly and with a high degree of uncertainty. According to the comments of the Federal States, the need for action in implementing the new legislative arrangement will vary greatly from one Federal State to another. Six of the twelve comments address the necessary implementation requirements under Sec. 41a(1)(2) FamFG-E, and one of these comments states that the necessary changes would already have been implemented independently of this proposed regulatory arrangement. Accordingly, it is assumed that the new legislative arrangement will trigger conversion costs in at least seven Federal States (= 16 Federal States * 5/12).

The necessity for implementation will likely vary significantly from case to case. There are no reliable quantitative indicators available for an estimate. In their statements, the Federal States assume that the conversion costs will be ‘in the mid five-figure’ range. To further determine the conversion costs, a one-off conversion cost of around EUR 50 000 per case is therefore assumed, as well as – in the absence of any other evidence – running costs estimated at ten per cent of the one-off conversion cost (= EUR 5 000) as a result of the recurring reissuing of qualified electronic signatures with court-related authority attributes. This results in an additional ongoing burden for the Federal States of around EUR 35 000 and a conversion cost of approximately EUR 350 000.

Requirement 17: Follow-up enquiry of parties involved in property purchase contracts by the expert committees in electronic form; Sec. 195(2)(2) and (3) BauGB-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
500 000	0	0	-2	0	-1 000
250 000	-5	30.50	0	-635	0
Change in compliance costs (in thousands of EUR)				-1 635	

The obligation of the expert committees to enable the fulfilment of the duty to provide information by way of a digital questionnaire, as stipulated in Sec. 195(3)(3) of the draft law BauGB, will result in minor one-off conversion costs and a reduction in annual material costs.

An online form for retrieving the information required by Sec. 195(2)(2) BauGB-E already exists in several Federal States or, regardless of the new legislative arrangement here, is in the design phase. Some Federal States may incur minor (up to EUR 100 000) conversion costs in total as a result of implementing a solution used in another Federal State.

The expert committees are expected to obtain information from stakeholders on around one million real estate contracts per year (see Section 4a). It is assumed that in half of the cases the expert committees have the email address of the parties to the real estate contracts (cf. Sec. 19(4)(7)(c) ERVV-E) and the questionnaire is then sent in electronic form. As a result, postage costs of EUR 2 per case are saved, reducing the annual material costs by EUR 1 million.

In addition, the time taken by the expert committees to collect the data of the follow-up respondents is reduced if respondents use the electronic form via the internet and these data can be taken on without media discontinuity. It is assumed that the data will be provided in electronic form in half of the cases in which the follow-up enquiry is initiated by e-mail – i.e. in 250 000 cases. In addition, a time saving of 5 minutes per case is estimated. At a wage rate of EUR 30.50 per hour (see Annex IX to the Guide, Federal States, middle grade), staff costs are reduced by EUR 635 000.

Overall, the compliance costs arising from the follow-up enquiry are reduced by EUR 1 635 million.

Requirement 18: Notaries are to point out the obligation to disclose information to the expert committees; Sec. 20b BeurkG-E

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)

1 000 000	3	69.30	0	3 465	0
Change in compliance costs (in thousands of EUR)				3 465	

Sec. 20b of the draft law BeurkG-E stipulates that notaries are obliged to inform the parties involved in the notarisation of a real estate contract of their duty to disclose information to the expert committee. In order to determine the annual staff costs, it is assumed that the obligation to notify arises in one million real estate contracts per year. It is also assumed that compliance with the notification obligation, including the explanations to the parties involved and the inclusion of a note in the certificate that the information has been provided, results in a time expenditure of three minutes. At a wage rate of EUR 69.30, this results in annual staff costs of just under EUR 3.5 million.

bb) Requirements related to other matters

Requirement 19: Adjustments to the IT infrastructure for receipt via processes other than real estate contracts; Sec. 34(1) ErbStG-E and Secs. 7 and 8 ErbStDV-E

The draft law envisages that notaries, courts and authorities should no longer send notifications to tax offices in paper form, but rather in electronic form, even in matters other than real estate contracts. This concerns in particular the reporting duties under Sec. 34 ErbStG in conjunction with Secs. 7 and 8 of the draft law Inheritance Tax Implementation Ordinance (ErbStDV-E).

Enabling the receipt of these notifications transmitted in electronic form will result in a one-off compliance cost of EUR 716 699 for the IT departments of the Federal States' financial administrations-.

Requirement 20: Processing of notifications of inheritance tax-related deeds, certificates and writs (gifts, special-purpose grants); Sec. 34(1) ErbStG-E and Secs. 7, 8 ErbStDV

Change in annual compliance costs of the Federal States and municipalities:

Number of cases	Time requirement per case (in minutes)	Hourly pay (in euro)	Material costs per case (in euro)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
20 000	-6	34.31	0	-69	0
Change in compliance costs (in thousands of EUR)				-69	

In certain cases, notifications must be submitted to the competent tax office in accordance with Sec. 34(1) of the Inheritance Tax Act (ErbStG-E). In future, the competent tax office will receive these notifications in electronic form, which will result in a time saving of six minutes per notification to be processed.

According to the Federal Statistical Office, there are around 33 000 taxable gifts per year with a value greater than EUR 0 (see Federal Statistical Office, Statistics on Finance and Taxation – Inheritance and Gift Tax). These statistics do not cover all transfers of assets because gifts within the tax allowances are not included, among other things. Assuming that only one in ten gifts leads to the recognition of a gift tax and real estate is not affected in one in four cases, around 80 000 relevant gifts can be assumed (see Requirement 12). It is also assumed that 25 per cent of such gifts will be notarised with corresponding notifications to the tax offices competent for inheritance tax.

In these 20 000 cases, the time required for manually recording the notifications in the tax offices is reduced by a total of six minutes per case. With an average wage rate of EUR

34.31 per hour in the inheritance and gift tax offices, total annual staff costs are reduced by EUR 69 000.

5. Other costs

a) Compliance costs for citizens

In principle, additional costs may arise because notaries will no longer transmit the execution documents in paper form as before, but will instead use structured data as provided for in this draft law – fees of up to EUR 125 may be charged for this (see Number 22115 KV GNotKG). However, this fee is only incurred if electronic legal communications with the land registry office have not yet been established, since an XML structure data record also has to be created for electronic submission. Electronic land register transactions have so far been fully or partially established in ten Federal States. It can be assumed that this will continue to be steadily expanded. Consequently, additional XML fees are only to be expected in a few cases, which are also likely to decrease in the future. These arise anyway where electronic land registry transactions are initiated due to electronic transmission to the land registry office (fixed costs), and the corresponding costs are already included in the implementation costs of the Act on the Introduction of Electronic legal communications and Electronic Files in Land Registry Procedures and on the Amendment to Further Land Registry, Register and Cost Regulations of 11 August 2009 (Federal Law Gazette).I, p. 2713).

Savings arise from the fact that the electronic transmission of documents necessary for the execution of real estate contracts between notaries and the bodies involved in the execution of a real estate contract leads to an accelerated processing of real estate contracts. It is assumed that, as a result of electronic communication, the conditions for execution will be in place one week earlier on average than is the case using the existing communication channels. This takes into account the fact that postal delivery times are eliminated and that processing by the agencies involved can be accelerated as a result of the exchange of structured data. It is assumed that 75 per cent of one million real estate contracts relate to private sales transactions. Assuming an average interest rate for commitment interest and an average financing amount of EUR 300,000, and further assuming that in 20 per cent of notarised real estate contracts, earlier completion leads to corresponding savings in connection with commitment interest, this results in annual savings of EUR 25.96 million.

b) Additional costs for businesses

Savings are to be expected from the shorter period of time until the implementation conditions are met and the commitment interest saved thereby. In this respect, too, an average commercial value of property transactions of EUR 300 000, an average commitment interest rate of 3 per cent and a financing rate of 20 per cent are assumed. This results in annual savings of EUR 8.65 million.

c) Other administrative costs

None.

d) Other additional costs

Additional costs or impacts on unit prices and price levels, are not to be expected.

6. Other legal consequences

No other effects on consumers or demographic effects relevant to gender equality policy are to be expected. In particular, the draft law concerns the interests of notaries to the same extent. Wherever the term ‘notary’ is used in the masculine form in this draft law, it refers equally to men and women. In particular, the feminine and masculine forms of the word were not used, as the comprehensibility of the provisions would otherwise be significantly impaired. No demographic effects are expected. Furthermore, the provisions are gender-neutral in content and affect women and men in the same way.

VIII. Time limit; evaluation

There is no provision for a time limit. The aim of digitisation pursued by this draft law is to be achieved on a permanent basis.

An evaluation shall be carried out no later than five years after the entry into effect.

The purpose of the evaluation is to examine the achievement of the following legislative objectives:

1. Reduction of bureaucracy, simplification of procedures and reduction of administrative burden;

2. Impetus for the further expansion of electronic land registry transactions;

3. Improving the data situation of the expert committees;

4. Improvement in the rapid provision of data to the Federal Statistical Office.

The following criteria should be chosen as indicators of achievement of the objective:

– Reduction of the average processing time for the execution of notarial real estate transactions;

– Number of land registry offices that have switched to electronic legal communications;

– The expert committees receive notifications from parties involved in property purchase contracts.

– The data for the evaluation should be based on the following data collected from the competent professional associations and chambers: Survey of the competent chambers on implementation success, work time saved through the use of structured datasets and any difficulties in application;

– Survey of associations on implementation success, working time saving through the use of structured datasets and application difficulties;

– Reporting behaviour of parties to land purchase contracts;

– The period of time elapsing between the certification of real estate contracts and the receipt by the Federal Statistical Office of the data necessary for the compilation of real estate price indices.

In addition, one year after the first Federal State has enacted a statutory instrument to initiate the electronic exchange of notarial administration data, a Federal-State-round table is to be held for the purpose of exchanging experiences, at which the regulations that have entered into effect to date and their effects will be presented.

B. Specific part

Re Article 1 (Amendment to the Building Code)

Re Point 1 (Amendment to the table of contents)

The table of contents should be adapted to the intended insertion of Secs. 213a and 213b BauGB-E (German Building Code) as specified in Point 3.

Re Point 2 (Amendment to Sec. 195 BauGB)

Re Subpara. (a)

Re Para. 2:

Sec. 195(2)(1) BauGB-E stipulates that those who conclude a contract as defined by Sec. 195(1)(1) BauGB or make an offer or acceptance as defined by Sec. 195(1)(2) BauGB (i.e. the material contracting parties to a notarial transaction referred to in Sec. 195(1) BauGB) must provide the expert committee with the data necessary for maintaining and evaluating the purchase price collection. The provision introduces an obligation to communicate certain data. The notification duty only applies at the request of the expert committee and therefore only applies to the party to a notarial transaction as defined by the first clause of Sec. 195(1)(1) and (2) which the expert committee expressly requests to provide notification. Both natural persons and legal entities as well as partnerships with legal capacity are covered by the reporting duty.

Sec. 195(2)(2) Draft BauGB lists a non-exhaustive catalogue of data that must generally be provided, categorised by property type. These are minimum data that the expert committees require in any case and are therefore always consulted if the expert committees do not already have them. If the necessary data is already on hand, the expert committee does not need to request it. In addition, the expert committees may request further data, due to reasons such as regional particularities. In certain cases, this may also include occupancy obligations.

The catalogue is organised according to different types of property. For example, plots of land which have been built on are listed in Point 5. Information must be provided on these properties, including details of the types of buildings and the living and usable space. The information on the types of building is based on the distinction between residential immovable property, commercial real estate and land with other buildings. More specifically, this includes information on whether the residential properties are single-family houses/duplexes, row houses/semi-detached houses, other owner-occupied homes or freehold flats (used flats, new flats, conversions, multi-family houses). In the case of commercial property, a distinction must be made between retail buildings, accommodation and catering buildings, office and practice buildings, buildings for industry, production and logistics, and partial ownership in accordance with the Condominium Act.

Only a reasonable effort is required from the parties under notification duty. The obligated parties must make the notification on the basis of the available documents and to the best of their knowledge. The aim is to avoid the need to seek additional (paid) assistance in order to fulfil the reporting duty. Therefore, if the parties under notification duty do not have precise information on the subject matter of the notification, an estimate as per Sec. 195(2)(3) BauGB-E will suffice. This estimate must be identified as such in accordance with Sec. 195(2)(4) BauGB-E. The expert committee must enable labelling in the form provided for data transmission.

Contracting parties do not have to proactively communicate the necessary data to the expert committee on their own initiative, but should only be obliged to communicate the data in question at the request of the data and using the means of explanation provided by the expert committees. Until now, this explanation option consisted of a questionnaire sent in paper form, which the parties involved had to fill out and return. In addition, Sec. 195(3)(2) of the draft BauGB now provides for the option of submitting the required declarations directly via an electronic form on the internet. The explanations provided to the parties involved should also place particular emphasis on ensuring that the information requested by the expert committees (e.g. through further explanations or examples in the questionnaire) is requested in a way that is understandable to the parties involved in the deed and that problems of understanding or application are prevented.

The notification options provided by the expert committee must be used for the notification in accordance with Sec. 195(2)(5) BauGB-E. This includes notification via the online form to be provided by the expert committee in accordance with Sec. 195(3)(2) BauGB-E or notification by other means of communication that the expert committees may establish.

Re Para. 3:

According to the newly inserted Para. 3 of Sec. 195 of the Building Code, the expert committees should inform the parties under notification duty of their obligation when requesting notification. The aim is to make the parties under notification duty aware of their obligation and thus to increase their willingness to provide the data requested in a timely manner.

In accordance with Sec. 195(3)(2) Draft BauGB, the expert committee must set a deadline when requesting information. This period may not be less than one month from the date of receipt of the request from the expert committee. Firstly, the deadline is intended to give the party under notification duty sufficient time to determine the necessary data and transmit it to the expert committee. Secondly, the deadline is intended to ensure that the Federal Statistical Office can fulfil its obligation under Article 3(1), Article 6(2) and Article 7(1)(b) of Regulation (EU) 2016/792 to provide the real estate price indices to the European Commission (Eurostat) on a quarterly basis, at the latest 85 calendar days after the end of the quarter for which the indices are calculated. In doing so, the Federal Statistical Office relies on data it receives from the expert committees and is therefore dependent on the timely and complete availability of the land data at the expert expert committees.

At present, the expert committees collect the necessary data from the contracting parties using paper-based questionnaires, which must be sent by post to the parties concerned and returned by post. In accordance with Sec. 195(3)(2) Draft BauGB, expert committees will in future be obliged to provide these questionnaires in digital form so that the parties can provide the required information without paper and without having to send it by post. Responses to these digital questionnaires should be possible via the internet, so that the parties can fulfil with their obligation to provide information on their own, internet-enabled devices. Furthermore, it is envisaged that the information on the meaning will be made available to the parties involved in an appropriate manner. Such an explanation can improve the quality of the data. The expert committees already regularly provide such explanations with the questionnaires at present. The creation of such a low-threshold service is also intended to ensure that the expert committees receive more data on real estate contracts than before and that the expert committees and the Federal Statistical Office have complete datasets on real estate transactions at their disposal.

Re Subpara. (b)

This is a consequential amendment to Subpara. (a).

Re Point 3 (amendment to Sec. 196(3)(1))

The standard land values as defined by Sec. 196 BauGB are of considerable importance for various tax assessment purposes. Its application has proven itself over many years of practice in property tax assessment and property valuation for inheritance and gift tax purposes, as well as for land transfer tax and income tax valuation purposes, such as purchase price allocation.

The KONSENS (Coordinated New Software Development of the Tax Administration) Land and Real Estate Database (LANGUSTE) establishes the technical conditions to be able to transmit the soil guideline values to the tax authorities in electronic form in accordance with an officially prescribed dataset centrally via an officially determined interface and to make them available for the respective tax specialist procedures.

In addition to Sec. 247(2) of the Valuation Act on property tax assessment, the proposed amendment to Sec. 196(3)(1) BauGB therefore standardises a comprehensive legal obligation to transmit the reference ground values determined by the expert committees to the competent tax authorities in electronic form in accordance with officially prescribed dataset via the officially determined interface.

Among other things, the establishment of the aforementioned electronic transmission of the reference ground values to the tax authorities is a prerequisite for a fully automated valuation procedure for the purposes of property tax.

Re Point 4 (insertion of Secs. 213a and 213b BauGB)

The new Secs. 213a and 213b BauGB-E provide that the exchange of data between notaries and the competent bodies in relation to the detailed permit and notification procedures is to be carried out in electronic form by 1 January 2027 at the latest. The possibility of a gradual introduction prior to that date is envisaged. These provisions apply exclusively to the exchange of data by electronic means and do not result in any change to substantive law or general principles of administrative procedural law.

The regulations also stipulate that notaries must send the expert committees a copy of the deed of the notarial legal transaction in accordance with Sec. 195(1) BauGB as an electronic document.

Communication between the bodies involved shall be carried out using the communication infrastructure of the electronic court and administrative mailbox. This communication infrastructure has proven its value in the area of justice as a means of secure and confidential communication between identified participants. Notaries are connected to this communications infrastructure via the special electronic notary mailbox, as the Federal Chamber of Notaries has set up such a mailbox for all notaries in accordance with Sec. 78n of the Federal Notaries Act (BNotO). Public authorities and legal entities governed by public law, which are obliged under Sec. 173(2)(2) of the Code of Civil Procedure to provide a secure means of transmission for the service of electronic documents, have the possibility of obtaining access to this infrastructure via the special electronic mailbox provided for in Chapter 3 of the ERVV.

Insofar as requests or communications are also made by citizens or decisions may be communicated to them, the provision does not change that situation and the means of communication to be used for that purpose. The new provision only applies in cases where notaries submit relevant applications or make notifications or receive approvals or certificates.

Start of the obligation and authorisation to transmit in electronic form

The transmission shall be carried out in accordance with the statutory instruments issued on the basis of Sec. 213b BauGB-E. For the applications for permit or certificate division referred to in Sec. 213a(1)(1) and the notification referred to in Point 2 pursuant to Sec. 28(1)(1) BauGB, reference is thus made in particular to Sec. 213b(2)(1)(1) BauGB-E, which makes notaries' authority as well as their obligation to transmit as an electronic document dependent on the enactment of a Federal State statutory instrument to that effect. The competent authorities' obligation to receive and process electronic applications from notaries only arises from the time specified therein. Prior to the adoption of a regulation pursuant to Sec. 213b(2)(1)(1) BauGB-E, notaries should not be able to request the receipt and processing of electronic applications and communications because it is assumed that the competent bodies do not yet possess the entire digital infrastructure required for this purpose.

However, individual competent authorities may also enable the electronic transmission of notarial applications and notifications on a voluntary basis prior to the entry into effect of Sec. 213a(1) and a statutory instrument pursuant to Sec. 213b(2)(1)(1) BauGB-E by providing appropriate access. The provisions specified in Sec. 213a(1)(1) and (2) BauGB-E do not preclude the submission of an application or notification by means of an electronic document in accordance with Secs. 213a and 213b BauGB-E on a voluntary basis.

On the contrary, the obligation for notaries to send the copy of the notarial transaction document to the expert committees as an electronic document pursuant to Para. 195(1) BauGB is intended to take effect from the date specified in this draft law as the date of entry into effect. The notarial notification to the expert committees is easy to implement due to its clearly defined scope of application. Furthermore, communication from the expert committees back to the notaries is not required. Moreover, the need for timely implementation of electronic communication between notaries and the expert committee in the preparation of this draft law has become clear, so further extension of the time by means of a statutory authorisation does not appear appropriate. In practice, some of the copies of the certificate are already transmitted electronically to the expert committees on a voluntary basis at present. The necessary technical infrastructure has already been established.

Re Sec. 213a (Electronic transmission when notaries are involved)

Sec. 213a(1) BauGB-E governs the means of communication from notaries to the competent body under the BauGB for various situations. It stipulates that notaries shall transmit the applications, notifications and copies specified in Points 1 to 3 as electronic documents, regardless of whether they are the notary's own declaration based on a power of attorney or whether the notary is merely passing on the declaration of the parties involved as a messenger. The electronic document should not require a qualified electronic signature, as the declaration has not been subject to any special formal requirements to date.

The authority competent for processing the document is determined by the provision governing the respective administrative procedure. This authority is:

- for the permit under Sec. 22(1)(1) BauGB, the building permit authority pursuant to Sec. 22(5) BauGB(1),

- for issuing the certificate under Sec. 22(5)(5) BauGB, the building permit authority pursuant to Sec. 22(5)(5) BauGB,

- for the receipt of the notification of the content of the purchase contract under Sec. 28(1)(1) BauGB, the municipality,

- for issuing the certificate under Sec. 28(1)(3) BauGB, the municipality pursuant to Sec. 28(1)(3) BauGB,

- for approval due to a restriction on disposal and freeze on development, the redistribution authority pursuant to Sec. 51(1)(1) BauGB,

- for approval in the expropriation proceedings, the expropriation authority pursuant to Sec. 109(1) BauGB,

- for permit procedures in the redevelopment area, the municipality pursuant to Sec. 145(1)(1) BauGB,

- for issuing certificates pursuant to Sec. 145(6)(2), the municipality,

- for permit procedures in connection with preservation statutes, the municipality pursuant to Sec. 173(1)(1) BauGB,

- for the approval of the establishment or division of co-ownership or partial ownership pursuant to Sec. 250(1)(1) BauGB and the approval of the legal transactions referred to in Sec. 250(6)(1) BauGB, the body designated by the Land Government in accordance with Sec. 250(2)(1) BauGB.

The addressees for the transmission of the notarial deeds pursuant to Sec. 195(1)(1) are the expert committees.

Re Para. 1

Re Point 1

Sec. 213a(1)(1) BauGB-E regulates which applications for permits or certificates notaries must submit as electronic documents:

- Application for a permit in accordance with Sec. 22 BauGB: In accordance with Sec. 22(1) BauGB, a municipality may determine, by means of a development plan or other statute, that certain dispositions of land are subject to approval by the building permit authority in order to safeguard the designated use of areas with tourism functions. The permit may either be expressly granted (Sec. 22(1)(1) and of Sec. 22(5)(1) BauGB) or is deemed to have been granted if it is not rejected within the period laid down in 22(5)(2) and (3) BauGB (Sec. 22(5)(4) BauGB). In accordance with Sec. 22(6)(1) BauGB, the land registry office may only make the entry in the land register if the notice of approval or the certificate confirming the presumptive approval due to the expiry of the deadline (Sec. 22(5)(5) BauGB) is presented.

- Application for a permit under Sec. 51 BauGB: Sec. 51(1) BauGB stipulates that, in a land redistribution area, dispositions of land and rights to land and corresponding transactions under the law of obligations require the written approval of the reallocation office. In accordance with Sec. 54(2)(2) and Sec. 22(6) BauGB, the restriction on disposal and freeze on development under Sec. 51 BauGB also leads to a prohibition from entry in the land register. Therefore, the registration in the land register of a real estate contract concerning a plot of land falling within the material scope of Sec. 51(1) of the Building Code requires a corresponding permit to be on hand.

- Application for a permit under Sec. 109 BauGB: Sec. 109(1) of the Building Code lays down an authorisation requirement for the legal transactions referred to in Sec. 51 of the Building Code if they relate to a property affected by an expropriation procedure and the initiation of the expropriation procedure has been published. In accordance with Sec. 109(1) BauGB, the initiation of expropriation proceedings leads to a restriction on disposal and freeze on development, which is entered in the land register in accordance with Sec. 108(6) BauGB. Therefore, the registration in the land register of a real estate contract concerning a plot of land falling within the material scope of Sec. 109(1) BauGB requires a corresponding permit to be on hand.

- Application for a permit under Sec. 144(1) or (2) BauGB: Sec. 144(1) and (2) of the Building Code lays down a requirement for a permit for certain land transactions in formally defined redevelopment areas. The permit is granted by either the municipality or the building permit authority, Sec. 145(1) BauGB.

- In accordance with Sec. 145(6)(1) and Sec. 22(6) BauGB, the restriction on disposal under Sec. 144(2) BauGB leads to prohibition on entry in the land register. Therefore, in the land register, the registration of a real estate contract relating to a plot of land situated in a formally defined redevelopment area is subject to the existence of a corresponding permit.

- The reference in Sec. 169(1)(3) BauGB means that the obligation on notaries to transmit documents in electronic form also applies to permit procedures in the field of urban development.

- Application for a permit under Sec. 172 BauGB: For land in areas for which a municipality has determined that a preservation statute under Sec. 172(1)(1)(2) BauGB applies, the Federal State governments are authorised to determine by statutory instrument that the establishment of co-ownership or partial ownership of buildings intended to be used in whole or in part for residential purposes may not take place without authorisation, Sec. 172(1)(4) BauGB. In accordance with Sec. 173(1) of the Building Code (BauGB), the approval is granted either by the municipality or by the building approval authority. However, since, in the relevant area of the establishment of co-ownership or partial ownership of buildings, a building permit or, in its place, consent under building law is not required, only the exchange of electronic documents between notaries and municipalities is relevant in the context of Sec. 173 BauGB for the purposes of that law.

- Pursuant to Sec. 172(1)(6) and Sec. 22(6) BauGB, the prohibition on disposition of Sec. 172(1)(4) BauGB leads to prohibition from entry in the land register. Therefore, the registration, in the land register, of a real estate contract relating to immovable property falling within the material scope of Sec. 172(1) BauGB requires, in this case, the existence of a corresponding permit.

- Application for a permit under Sec. 250 BauGB: Sec. 250(1)(1) BauGB stipulates that approval is required for the establishment or division of residential property or partial ownership in accordance with Sec. 1 WEG and, in Sec. 250(3)(2), enables the authority responsible for issuing the permit to stipulate that approval is also required for the sale of a co-ownership or partial ownership property. The Sec. 250(6)(1) BauGB also provides for other legal transactions which require a permit. The permits are issued by the authority designated by the Federal State government, Sec. 250(2)(1) BauGB. In accordance with Sec. 250(5)(1) BauGB, the restriction on disposal under Sec. 250(1)(1) BauGB leads to prohibition from entry in the land register. Therefore, the registration in the land register of a declaration of division or a real estate contract concerning a plot of land that is situated within the area of application of a statutory instrument pursuant to Sec. 250(1)(3) BauGB requires the existence of a corresponding permit.

- Application for the issuance of a certificate under Sec. 22(5)(5) BauGB: In accordance with Sec. 22(5)(4) BauGB, the permit required under Sec. 22(1) BauGB shall be deemed to have been granted if no decision on the permit has been made within the specified period. Upon application, the building approval authority shall issue a certificate of the occurrence of this presumptive permit. This certificate is required for the execution of the land register due to the restriction on disposal applicable in accordance with Sec. 22(6)(1) BauGB.

- Application for the issuance of a certificate under Sec. 28(1)(3) BauGB: In accordance with Sec. 28(1)(3) BauGB, the municipality must issue a certificate upon request confirming that a right of first refusal does not exist or is not being exercised. This certificate is required on the basis of the prohibition from entry in the land register applicable under Sec. 28(1)(2) BauGB.

- Application for the issuance of a certificate under Sec. 145(6)(2) BauGB: In accordance with Sec. 145(6)(2) BauGB, in cases where the permit referred to in Sec. 144(1) or (2) is generally granted or is not required, the municipality is to issue a certificate to that effect upon application. This certificate is required for the execution of the land register due to the restriction on disposal applicable in accordance with Sec. 145(6)(1) and Sec. 22(6) BauGB.

Re Point 2

Sec. 213a(1)(2) BauGB-E is intended to create the basis for notaries to transmit the notification of the content of the purchase contract pursuant to Sec. 28(1)(1) BauGB as an electronic document.

In accordance with Sec. 28(1)(1) BauGB, the parties to a property purchase contract must immediately notify the municipal authority of the content of this agreement so that the municipal authority can check whether it has a right of first refusal under Secs. 24 or 25 BauGB and whether it wishes to exercise any such right of first refusal. In accordance with Sec. 28(1)(2) BauGB, the land registry office may only enter the acquiring party as the new owner in the land register if it has been proven to it that the right of first refusal has not been exercised or does not exist by means of a negative certificate from the municipality. In practice, the notaries generally notify the parties involved of the content of the purchase contract and obtain the negative certificate regarding the municipal right of first refusal, as its existence is usually a condition of maturity that must be verified by the notary. In addition, this will speed up the procedure and simplify the procedure for the parties involved.

Re Point 3

Sec. 213a(1)(3) BauGB-E regulates the transmission of copies of notarial deeds relating to the contract, the offer and the acceptance as defined by Sec. 195(1) BauGB. Currently, notaries fulfil their obligation under Sec. 195(1) BauGB primarily by sending copies of the respective contracts, offers and acceptances to the expert committee by post and in paper form. These certificates, together with any annexes, must be submitted to the expert committees. The explicit provision that the obligation to transmit electronically also extends to the attachments serves to clarify the matter.

Re Para. 2

Re Para. 2(1)

The notarial applications shall be transmitted to the special electronic mailbox for authorities under Chapter 3 ERVV of the body responsible for the permit procedure or, if no independent mailbox is set up for it, of the legal entity.

Re Para. 2(2)

Notarial notifications pursuant to Sec. 28(1)(1) BauGB shall be sent to the municipality's special electronic authority mailbox in accordance with Chapter 3 of the ERVV.

Re Para. 2(3)

Sec. 213a(2)(3) BauGB-E regulates the transmission route from notaries to the expert committees. When notaries transmit documents within the meaning of Sec. 195(1) of the German Building Code (BauGB-E) as electronic documents to the expert committees, these should only be able to be addressed to the special electronic mailbox of the expert committee. As independent authorities (*Federwisch*, in BeckOK BauGB, 62nd edition, as of 1.5.2024, Sec. 192, Recital 5 et seq.), the expert committees are required to set up their own post office box (pursuant to Sec. 173(2)(1)(2) of the Code of Civil Procedure [ZPO], among other things). Most expert committees in Germany already have their own official post office box. There only remain a few expert committees that do not yet have their own official mailbox in the Federal States of Baden-Württemberg, Saxony and Schleswig-Holstein. The regulation is intended to prevent a confusing situation regarding the necessary addressing of expert committees due to the different locations of the legal entities responsible for them in the various Federal States. The proven communication structure of the electronic court and administrative mailbox should also be used for these transmissions.

Re Para. 3

Sec. 213a and the statutory instruments pursuant to Sec. 213b BauGB-E do not make any independent provision on the scope of the application or notification. The principles developed for conventional paper-based applications or notifications should apply. Accordingly, even in the case of an application for approval or a notification in the form of an electronic document, it must be possible to determine the subject matter of the proceedings without doubt from the outset. It remains the case that a copy of the notarial agreement does not necessarily have to be transmitted for the notification of the content of the purchase contract. Rather, only the transfer modality is provided for, so that both the single-stage and two-stage procedures can continue to be applied. In the two-stage procedure, for reasons of data minimisation, notaries in the municipality initially only report the property in question and only send further information and a copy of the purchase contract after the municipality has notified them that a right of first refusal cannot be ruled out. In the single-stage procedure, however, a copy of the purchase contract, including all information on the concluded real estate contract, is sent from the outset to the municipality. In the case of applications for approval, however, it will generally still be necessary to submit a copy of the deed relating to the legal transaction requiring approval in order to determine the subject matter of the proceedings without doubt.

Para. 3(1) provides that from the time and to the extent that the transmission of electronic applications or communications is mandatory pursuant to Sec. 213b(2)(1)(1) BauGB-E, notaries must also transmit any necessary annexes such as copies of the deed in electronic form in order to avoid media discontinuity. In accordance with Sentence 2, the same rules on data transmission and technical specifications should apply to the transmission of the documents containing the provisions of the statutory instruments pursuant to Sec. 213b(1) and (4)(1) and (4) BauGB-E as to the transmission of the application itself.

Re Para. 4

Sec. 213a(4) BauGB-E sets out detailed provisions on the transmission of the specified permits and certificates as electronic documents from the competent authorities to notaries. It makes no statement regarding the communication of the administrative decision to the parties concerned.

If the notary is authorised to receive the decision in accordance with the application, the decision shall be notified by transmission to the special electronic notary mailbox (Secs. 41(1)(2), 43(1)(1) VwVfG [Administrative Procedure Act]). Whether the parties themselves have granted access in accordance with Sec. 3a(1) VwVfG for the transmission of electronic documents is irrelevant, since in this respect the authorised notary is the recipient as defined by Sec. 3a(1) VwVfG.

Sentence 1 states that the competent authorities transmit the aforementioned permits and certificates as electronic documents to the notary. This is declaratory insofar as the authority is fundamentally free to choose the form of its administrative action and the provisions referred to in Points 1 and 2 do not impose any special formal requirements on the permits and certificates that would prevent them from being issued as electronic documents. In deviation from Para. 1, the power to transmit approvals and negative certificates as electronic documents shall not be made dependent on a Federal State statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, because notaries already have the digital infrastructure in place that enables them to receive and process electronic permits and certificates. From the date specified in the statutory instrument pursuant to Sec. 213b(2)(1)(2), the competent authorities shall no longer have discretion regarding the form of their administrative actions when issuing permits and certificates if these are transmitted to notaries. From that date, the transmission shall be made by electronic means.

In accordance with Sentence 2, permits and certificates must comply with the form specified in Sec. 137(2) of the German Land Registry Act (GBO) if they are transmitted to notaries as electronic documents. Sec. 137(2) GBO provides that permits and certificates may only be taken into account in land register transactions as electronic documents if they contain the name of the issuing person, identify the authority and are provided with a qualified electronic signature by the issuing person. In addition, the qualified certificate or a related qualified attribute certificate on which the signature is based shall enable the authority to identify it. This is intended to ensure the usability of permits and certificates issued as electronic documents in electronic legal communications with land registry offices.

The provision does not contain any determinations on the file format of the electronic document. As long as no ordinance pursuant to Sec. 213b (2)(1)(2) BauGB-E stipulates that the competent authority is obliged to transmit approvals and negative certificates as electronic documents, the electronic document transmitted by the competent authority must be suitable for processing by the land registry office in accordance with Sec. 20(3) ERVV-E with regard to technical specifications for data transmission and file format for processing by the land registry office. The electronic document must therefore comply with the provisions of Federal State law issued by way of the statutory instrument pursuant to Sec. 135(1)(2)(2) GBO on the basis of its application in electronic land register transactions and which regulate the details of data transmission and storage for the transmission of electronic documents to the land registry office by statutory instrument and define file formats for the electronic documents to be transmitted in order to ensure suitability for processing by the land registry office. Since the territorial scope of competence of a competent body does not extend beyond the borders of a Federal State, there is no risk that the competent body will have to take into account various Federal State ordinances pursuant to Sec. 135(1)(2)(2) GBO on the technical specifications of the documents to be submitted when issuing the permits.

If electronic legal communications to the land registry offices have not yet been opened in the Federal State concerned and the permit or negative certificate must therefore be submitted in paper form, the format of the electronic document must be such that notaries are able to convert it into a publicly certified paper document in accordance with Sec. 42(4) BeurkG.

If a Federal State government has issued the statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, the file format of the permits and certificates as electronic documents is based on Sec. 20(1) ERVV-E. Before issuing the statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, the Federal State government concerned should therefore include the file format pursuant to Sec. 20(1) ERVV-E in the provisions issued pursuant to Sec. 135(1)(2)(2) GBO on the file formats that can be submitted to the land registry offices. This avoids the need for notaries to first produce a certified printout of the electronic document in accordance with Sec. 42(4) BeurkG and then digitise it again with a note in accordance with Sec. 39a BeurkG, i.e. to carry out a double media transfer in order to ensure that the electronic document can be used in the land register.

Only decisions in line with the application, i.e. the granting of the permit and the negative certificate, should be subject to the option or obligation to transmit them as electronic documents. Only such decisions, albeit not decisions to refuse permits, can be used in electronic land register transactions, so there is only a need for these decisions to enable transmission as an electronic document or to make it mandatory. This is without prejudice to the possibility for the building permit authority to informally give notification of the notary's refusal decision by electronic means.

The competent authorities shall send the permits and certificates to the special electronic notary mailbox of a notary in accordance with Sec. 78n of the Federal Notary Act (BNotO). This does not necessarily have to be the mailbox of the notary who made the application. On the contrary, the provision also allows the permit or certificate to be sent, in accordance with the application, to the notary, who merely carries out the execution of the deed in the land register, but has not applied for the authorisation or made the notification pursuant to Sec. 28(1)(1) BauGB.

Re Para. 5

Sec. 213a(5)(1) Draft BauGB establishes a transitional arrangement for the period until 1 January 2027, by which date electronic communication must be introduced nationwide at the latest. The provision in Sec. 213b(2)(1)(1) BauGB-E enables Federal State governments to gradually introduce electronic legal communications and thus pilot electronic communication limited to individual authorities. In this case, there may be a patchwork of different submission methods. If an incorrect submission method were chosen for a single authority, this would not only cause significant additional effort due to the required late submission, but would also lead to legal uncertainty in individual cases. In the interests of the parties concerned, applications for authorisation trigger time limits for the administration to take decisions (see Sec. 22(5)(2) BauGB or Sec. 28(2)(1) BauGB, among others). If a request is accidentally submitted incorrectly, there is a risk of delay and the triggering effect could be called into question. This would contradict the objective of administrative simplification. These uncertainties are avoided by the provision laid down in Sentence 1. In any event, under that provision, the submission of the application in paper form during the transitional period does not render the application inadmissible.

Sentence 2 is intended to clarify that a violation of the obligation to transmit a permit or certificate as an electronic document ordered under Sec. 213b(2)(1)(2) BauGB-E in conjunction with the Federal state ordinance does not render the permit or certificate invalid. In this way, the land registry office is to be relieved of having to verify whether the transmission could have been made in paper form or whether it should have been made in electronic form.

Re Sec. 213b (Statutory authorisation for electronic transmission)

Re Para. 1

Under Sec. 213b(1) BauGB-E, the Federal State governments should be able to determine additional electronic means of communication. This is intended to enable a Federal State to set up a uniform portal through which the application for and granting of the permits and certificates referred to in Sec. 213a BauGB-E, the notification pursuant to

Sec. 28(1)(1) BauGB and the transmission of copies of documents to the expert committees can also be handled in electronic form. However, these additional communication channels should not be meant to be exclusive, so that communication via the special electronic mailboxes of authorities or notaries should always remain permissible. Likewise, no cumulative transmission should be required via both the special electronic mailboxes of authorities or notaries and via the additional communication channel. Transmission shall always only be permitted by means of the EGVP infrastructure or only by the additional means of communication.

Re Para. 2

The first sentence of Sec. 213b(2) BauGB-E provides that the Federal State governments are to determine by statutory instrument the dates from which communication between notaries and the competent bodies in connection with the issuance of the permits and certificates referred to in Sec. 213a BauGB-E and the notification referred to in Sec. 28(1)(1) BauGB must take place using electronic documents. The Federal State governments should be able to set different dates for the mandatory electronic transmission by notaries, on the one hand, and by the competent bodies, i.e. the building permit authorities, municipalities, transfer agencies, expropriation authorities and the bodies designated in accordance with Sec. 250(2)(1) BauGB, on the other.

However, the Federal State governments should be obliged to implement the obligations of notaries and the competent authorities for electronic communication by 1 January 2027 at the latest. The time shall be chosen in such a way that the administrative authorities have sufficient time to provide the infrastructure required for electronic communication. The Federal State governments retain the possibility of setting a different earlier date for electronic communications for individual competent bodies.

To ensure that electronic submissions can be processed automatically by the relevant authorities, Federal State governments should publish in Federal State statutory instruments the recipient name under which the special electronic mailbox of the respective authority can be addressed and the unique technical mailbox name for this purpose. The latter unique technical mailbox designation refers to the EGVP ID of the authority in question, which must also be announced in the Federal State statutory instrument. However, the announcement only has a declaratory effect, so that the transmission to a special electronic mailbox for the authorities, which is not mentioned in the statutory instrument, does not affect the legal validity and access of the transmitted application.

The ordinance authorisation in Para. 2 does not refer to the obligation of notaries, governed by Sec. 213a(1)(3) BauGB-E, to transmit the copies referred to in Sec. 195(1) BauGB to the expert committee as electronic documents, because they must be transmitted to the electronic mailboxes of the expert committees without a transitional period from the entry into effect of this Act (see also Section ‘Commencement of the obligation and power to transmit electronic data’ in the introductory part of the individual statement on Point 3).

Re Point 1

From the date determined by the government of the Federal State in question pursuant to Point 1, notaries are obliged to transmit the applications and notifications referred to in Sec. 213a(1)(1) and (2) as an electronic document. Applications or notifications in conventional paper form will then only be considered if this is provided for in the statutory instrument pursuant to Sec. 213b(4)(4) BauGB-E in the event of technical malfunctions. However, for the period up to 1 January 2027, submitting an application in paper form is not detrimental, contrary to an obligation to submit applications in electronic form introduced by a statutory instrument of the Federal State government. The Federal State governments should be able to determine on a case-by-case basis that notaries only have to send applications for approval and notifications pursuant to Sec. 28(1)(1) BauGB to certain authorities as electronic documents. This allows the Federal State governments to gradually introduce electronic communication from notaries to the competent authorities, taking due account of the capacity and degree of organisation of the individual bodies. Before a corresponding Federal State regulation is enacted, notaries shall only be authorised to transmit applications and notifications pursuant to Sec. 28(1)(1) BauGB as electronic documents if the respective authority has consented to such transmission. Notaries, on the other hand, cannot require the competent authorities to accept applications transmitted in electronic form before the corresponding Federal State statutory instrument is issued. With the enactment of the statutory instrument pursuant to Sec. 213b(2)(1)(1) BauGB-E, notaries now have both the authority and the obligation to submit permit applications and notifications pursuant to Sec. 28(1)(1) BauGB as electronic documents. Conversely, at this point in time, the competent authority is obliged to accept the applications for approval and notifications under Sec. 28(1)(1) BauGB as electronic documents.

Re Point 2

The statutory authorisation in Point 2 is intended to give the Federal State governments a differentiated means of determining when certain or all the competent authorities of a Federal State have to send the permits and certificates referred to in Sec. 213a(4)(1)(1) and (2) to the notaries as electronic documents. The statutory authorisation only concerns the date on which the option laid down in Sec. 213a(4)(1) BauGB-E becomes mandatory. The obligation must be introduced by 1 January 2027 at the latest. However, a gradual introduction can be started earlier. This allows for testing in pilot projects. However, the provisions concerning form in Sec. 213a(4)(3) BauGB-E are not subject to the regulatory discretion of the Federal State governments, meaning that even those permits and certificates that must be submitted as electronic documents pursuant to a statutory instrument under this Point 2 must comply with the form specified in Sec. 137(2) GBO. From the date specified in the statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, all competent authorities must maintain the digital infrastructure that enables them to create electronic documents with a qualified electronic signature with authority attribute and to transmit them via the communication structure of the electronic court and administration mailbox.

Re Para. 3

The Federal State governments are authorised to delegate the powers to issue statutory instruments conferred on them under Sec. 213b(1) and (2)(1) BauGB-E to one or more supreme Federal State authorities. This sub-delegation option appears appropriate in order to enable the Federal States to regulate matters through the department(s) most closely concerned.

Re Para. 4

In accordance with Sec. 213b(4) BauGB-E, the Federal Government is to be authorised to regulate certain technical issues by means of ordinances with the consent of the Federal Council. The provision is based on Sec. 130a(2) ZPO, which also provides for the Federal Government to issue ordinances on matters relating to electronic legal communications with the consent of the Federal Council. The provision means that the technical framework conditions for the transmission of electronic documents between notaries and the competent authorities can be regulated uniformly throughout Germany. This seems necessary in order to make the best possible use of the opportunities of digitalisation, to enable the participation of people with disabilities and to counteract further legal fragmentation in the field of electronic legal communications. This also makes it possible to consolidate the technical regulations relating to the various forms of electronic legal communications in the ERVV as far as possible.

Sec. 213b(4) BauGB-E is also intended to empower the Federal Government to determine, by means of a statutory instrument with the consent of the Federal Council, the technical framework conditions for the transmission of copies of the certificates as electronic documents to the expert committees. The regulation of procedures for data collection and data storage on the part of the expert committees remains unchanged under the new legislative arrangement and continues to fall within the competence of the Federal States in accordance with Sec. 199(2) BauGB.

Re Point 1

The provision in Point 1 is based on Sec. 135(1)(2)(2) GBO and allows the Federal Government to determine the details of data transmission and storage as well as the file formats to be used by way of statutory instrument with the consent of the Federal Council. In doing so, it is advisable to use uniform standards nationwide in order to ensure that documents can be exchanged nationwide. The provisions in Chapter 7 ERVV-E serve to implement this authorisation.

Re Point 2

Under Point 2, the Federal Government shall be able to require notaries, by statutory instrument, to transmit certain information in a structured, machine-readable form, in addition to the application for a permit or certificate, the notification pursuant to Sec. 28(1)(1) BauGB and the copies of the deeds relating to the contract, the offer and the acceptance pursuant to Sec. 195(1) BauGB, or to submit the application itself as pure XML data. The provision is based on Sec. 135(1)(2)(4)(b) GBO and is intended to enable the direct and, where appropriate, automated further processing of certain data of the respective process by the authority for the purpose of increasing efficiency. In order to ensure that such an obligation exists only where the authorities’ digital infrastructure allows for the processing of structured data, notaries may only transmit electronic documents to the competent bodies after the adoption of a statutory instrument pursuant to Sec. 213b(2)(1)(1) BauGB-E, unless the relevant authority has previously consented to electronic transmission.

Where the XML structural file is to be transmitted as a separate electronic document in addition to the application or the notification, the XML file is a mere auxiliary file to simplify the authority’s administrative procedures. In this case, the electronic document containing the application continues to take precedence. However, it is also conceivable that the ordinance will stipulate that the application or notification itself will also have to be submitted as pure XML data. In this case, the application or notification and other information should be submitted in a uniform electronic document in XML format, making this file the leading one.

The statutory instrument referred to in Point 2 shall continue to determine the scope of the data to be transmitted in a structured manner. This authorisation is fulfilled by the provisions of Sec. 19 ERVV-E. In addition, the IT Standards Working Group of the Federal-State Commission for Information Technology in the Judiciary has already developed XML structured datasets based on the XJustiz software standard that can be used for these purposes.

The transmission of the structured machine-readable data referred to in this Point 2 shall be subject to the same requirements in terms of form and means of transmission as for the application.

Re Point 3

The statutory authorisation in Point 3 is also intended to enable the Federal Government to provide for the use of structured data in the XML file format for the transmission of the authorisation or certificate with the consent of the Federal Council. On the one hand, the provision allows the permit to be sent as a separate image file and the structured data to be transmitted in the form of an auxiliary dataset only. However, the provision also allows the permit or certificate itself to be transmitted as pure XML data, thereby designating the XML dataset as the leading file. An image file depicting the official order would then merely be a supporting file, or it could even be dispensed with entirely. The provision also makes it possible to define which data should be included in the XML structure dataset. Sec. 20(1) ERVV-E serves to implement this regulatory authorisation. The IT standards working group of the Federal-State Commission for Information Technology in the Judiciary has also developed XML structure datasets on the software standard XJustiz.

Re Point 4

Under Point 4, the Federal Government may enact provisions in the event of technical malfunctions. Such measures become relevant in particular if, pursuant to Sec. 213b(2)(1) BauGB-E, it is stipulated that the exchange between notaries and the competent authorities must be carried out in electronic form. In the event of malfunctions, for example, transmission of electronic documents on a data medium or in paper form may be permitted. This authorisation is to be fulfilled by the provisions in Sec. 19(5) and Sec. 20(4) ERVV-E.

Re Article 2 (Amendment to the Notarisation Act)

Re Point 1 (Amendment to the table of contents)

The table of contents should be amended to reflect the insertion of Sec. 20b of the draft law Notarisation Act (BeurkG-E) in accordance with Point 2.

Re Point 2 (amendment to Sec. 16a BeurkG)

Under Sec. 20b BeurkG-E, notaries are required to draw attention to the notification duty laid down in Sec. 195(2) BauGB-E and to record this in the transcript. The provision covers all transactions falling within the scope of Sec. 195(1) BauGB, which stipulates that in such cases the certifying authority must send copies of the contract, the offer and the acceptance to the expert committee. In terms of legal consequences, the provision is intended to establish an official duty for notaries to inform the parties involved of their obligation to notify the expert committee. The aim is to ensure that the expert committees receive more information than before from the parties involved following the notarisation of a real estate contract. The information duty does not include an explanation of the subject matter of the notification, as this depends on the scope of the request made by the expert committee. The obligation to notify is limited to pointing out that there is a notification duty, insofar as a request to that effect has been made by the expert committee.

Together with the amendments in Article 1(2), the newly added Sec. 20b BeurkG-E is intended to improve the data available to the expert committee as well as to the Federal Statistical Office, due to the expert committee's duty to provide information to the Federal Statistical Office pursuant to Sec. 7(2) PreisStatG. Practice has shown that requests for information sent by the expert committees to the parties involved following the notarisation of the sale of a property often remain unanswered. The duty of notaries to provide instruction should therefore be extended to include this aspect. A characteristic feature of the notarisation hearing is that, in addition to reading out the contract, the notary provides guidance and explanations. In the resulting dialogue process, questions are asked regularly, and the notary's comments are received with particular attention by the participants at this time. In particular, the parties involved regularly enquire about their reporting duties towards third parties (such as building insurers, property tax office of the municipality, energy suppliers). If the reference to the notification duty under Sec. 195(2) BauGB-E reaches the parties involved at the right moment, they should find it easier to comply with it, as they are already closely involved with the matters concerned and have already obtained the necessary information for other purposes.

Re Article 3 (Amendment to the Electronic Legal Correspondence Ordinance)

Insofar as this draft law authorises the Federal Government (with the consent of the Federal Council) to regulate the details of data transmission and storage and to specify file formats for the documents to be transmitted, the corresponding provisions are to be implemented in the ERVV. For this purpose, the ERVV is to be expanded by two chapters concerning electronic legal correspondence with the courts for the approval of notarial legal transactions and the exchange of electronic documents between notaries and certain administrative authorities.

Re Point 1 (recast of Sec. 1(1) ERVV)

In order to take account of the intended extended scope of application of the ERVV, Sec. 1(1) ERVV, which defines the scope of application of the ordinance, is to be revised. The previous regulatory content will in future be contained in Sec. 1(1)(1) and (2). The previous wording of Sec. 1(1) ERVV is changed in sentence structure and at the same time clarified by the use of the wording 'suitability for processing' instead of 'processing'. The reason for this is that the ERVV does not contain any provisions on the processing of electronic documents, but merely lays down the technical framework conditions for electronic legal communications so that the electronic documents are suitable for further processing by the courts, law enforcement authorities and criminal courts. On the other hand, the wording 'suitability for processing' corresponds to the wording of the enabling provisions for the adoption of the Ordinance contained in Sec. 130a(2)(2) ZPO, Sec. 46c(2)(2) ArbGG [Labour Court Act], Sec. 65a(2)(2) SGG [Social Courts Act], Sec. 55a(2)(2) VwGO [Code of Administrative Procedures], Sec. 52a(2)(2) FGO [Code of Procedure for Fiscal Courts] and Sec. 32a(2)(2) StPO [Code of Criminal Procedure]. Points 3 and 4 cover the new regulatory areas to be included in Chapters 6 and 7. They declare the existing provisions of the ERVV to be generally applicable to the newly added areas as well, unless otherwise specified in Chapters 6 and 7 of the ERVV-E. Insofar as Sec. 1(1) ERVV-E now stipulates that the ERVV shall apply in accordance with Chapters 6 and 7 ERVV-E, this is intended to clarify that the electronic document as defined by Chapter 2 ERVV can also be a pure XML structure file, so that such files can no longer be understood as purely serving files in future, but can also act as leading files.

Re Point 2 (addition of Chapters 6 and 7)

Re Chapter 6 (Electronic legal correspondence between courts and notaries for the approval of notarial legal transactions)

The ERVV has so far only regulated the transmission of electronic documents to the court, but not the transmission of electronic documents by the court. Since judicial approvals of legal transactions pursuant to Sec. 41a FamFG-E will in future be transmitted as electronic documents to notaries in a form that enables automatic forwarding to the land registry offices or registers concerned, it will be necessary to determine the technical requirements for these electronic documents also for this means of communication. In addition, the provisions relating to the transmission of notaries to the courts in connection with a request for judicial approval of a notarial act are to be included in that chapter, which, as special provisions, thus take precedence over Sec. 2(3) ERVV in particular.

Re Sec. 16 (Submission of applications to the court)

Re Para. 1

Sec. 14b FamFG already stipulates that notaries may submit applications and declarations to the court as electronic documents. Sec. 16(1) ERVV-E is intended to take into account the specific requirements for electronic documents arising from communication between notaries and the court in connection with the approval of legal transactions. In its scope of application, the provision is to act as a more specific standard under Sec. 2(3) ERVV with regard to electronic documents containing an application by the notary.

Para. 1 is intended to provide for those electronic documents with which the notary seeks judicial approval of a legal transaction. If minors or persons for whom a legal guardian has been appointed are involved in a real estate transaction, or where the transaction is subject to preservation of the estate, the validity of the transaction may be subject to the approval of the family, guardianship or probate court pursuant to Sec. 1643(1), Sec. 1799(1), each in conjunction with Sec. 1850(1)(2)(4) and (5), Sec. 1833(3)(1)(4), Sec. 1888(1) and Sec. 1962 BGB. In addition, under Sec. 17(3) HöfeO [Höfeordnung – Order on Farms], it is not the approval authority, but the Agricultural Court, which is competent to grant the authorisation under Sec. 2(1) GrdstVG.

Such an application is not subject to form and should therefore only be transmitted as an electronic document pursuant to Sec. 14b(2)(1) FamFG. However, since notaries already communicate with the registry courts exclusively by electronic means and have considerable experience in this area, it is unlikely that there will be any deviation from the intended discretion in Sec. 14b(2)(1) FamFG. In addition, pursuant to Sec. 14b(2)(1) FamFG, the court may request an electronic document to be submitted in paper form if it was originally transmitted in electronic form.

Para. 1 stipulates that an application for judicial authorisation must be submitted as a simple XML file of a structured dataset. This means that it will no longer be necessary to create and transmit an electronic copy of the application letter which was previously required at the notary's office. Rather, it should be sufficient for the structure dataset to be transmitted, announced as per Sec. 5(1)(2) ERVV, to contain the application. This should lead to a reduction in the effort and acceleration of the execution of real estate contracts in the medium term, since according to Sec. 2(3) ERVV in these cases an accompanying XML dataset would have to be created anyway and the creation of a separate electronic document can be dispensed with. This should also better exploit the possibilities of digitalisation. In addition, Para. 1 specifies the data that the structure dataset must contain when applying for a permit. Firstly, these consist of the information that is useful for the assignment of an electronic document to a judicial procedure and the further processing by the court and have therefore already been provided for in Sec. 2(3) ERVV. Secondly, the dataset referred to in Para. 1(2) and (3) is also intended to contain such information as to enable the judicial permit procedure to be clearly attributed to a particular notarial instrument. However, the complete and error-free transmission of the aforementioned data in all parts is not a mandatory requirement for the application to be valid. The application is already valid if the actual intended content of the application can be determined by interpretation based on the overall circumstances.

Re Para. 2

Para. 2 concerns the transmission of the deed containing the legal transaction for which the notary is seeking approval. It does not regulate the necessity of the transmission of the instrument, for which the substantive law and procedural law are to remain decisive, but provides that, from a technical perspective, the general technical framework provisions on electronic legal communications from Chapter 2 ERVV are to be decisive.

Re Para. 3

Para. 3 is intended to make use of the authorisation to enact provisions for the event of technical malfunctions. If the transmission of electronic documents by the notary is temporarily not possible in individual cases, the documents should be sent in paper form as before.

Re Sec. 17 (Transmission of approval decisions and certificates of legal validity to the notary)

Re Para. 1

Sec. 17(1) of the ERVV-E governs the material scope of the provision according to which it is to apply to the transmission of judicial approval decisions, negative clearances and certificates of res judicata under Secs. 41a and 46(2) FamFG-E as electronic documents. The provision thus covers all judicial approval requirements in connection with notarised legal transactions. In addition, Para. 1 declares Secs. 2 to 5 ERVV to apply accordingly to the transmission of these electronic documents. The judicial electronic document containing the approval, negative certificate, legal background, certificate or certificate must therefore in principle be transmitted in the PDF file format and should comply with the versions and technical characteristics announced in accordance with Sec. 5(1)(1) and (6) ERVV. By derogation from the corresponding applications, the electronic documents that the court sends back to the notaries should constitute an electronic image of the original of the judicial decision. This is due to the fact that the court is in any case obliged to produce this decision in a format beyond a pure XML structure dataset. Furthermore, the territorial applicability of a court approval is not necessarily limited to a single Federal State, which is why it is important to avoid any distortions that may arise from the fact that the Federal State in which the permit is to be submitted to the land registry office or commercial register has not yet approved the submission as an XML structure file.

Re Para. 2

Para. 2 shall adapt the requirements for the XML structure dataset to be transmitted pursuant to Para. 1 in conjunction with Sec. 2(3) ERVV to the requirements of specific communication between the court and the notaries. At least the information referred to in Para. 2 shall be transmitted. However, it is not necessary to transmit further information, such as that referred to in Sec. 2(3) ERVV. These structure data can be transferred to the specialised application software by the notaries and directly further processed without the need to extract them manually from the judicial decision. Since the XML structure file is sent next to the copy of the judicial decision, it is merely an auxiliary file to facilitate further processing by the notary. The leading document is the transmitted copy of the decision. In the event of any discrepancies between the content of the decision visible from the image and the XML file transmitted, the image is therefore decisive.

Re Para. 3

Para. 3 is intended to make use of the authorisation to enact provisions for the event of technical malfunctions. If, in individual cases, it is temporarily impossible to transmit the judicial electronic documents, for example because a technical malfunction prevents the court from sending them or the notary from receiving them, the documents shall be sent in paper form as before. The provision is intended to cover any system-related impossibility of electronic transmission for which the user is not responsible. There is no provision regarding the form of the documents to be transmitted, so that even in these cases, the court decision must be transmitted as a certified copy or certified transcript. The provision concerns the transmission channel and has no impact on deadline provision.

Re Chapter 7 (Electronic notary administration exchange)

Re Sec. 18 (General provisions)

Re Para. 1

Sec. 18(1) ERVV-E defines the scope of application of electronic notarial administration exchange to the effect that the technical requirements set out in Chapter 7 apply to all electronic documents transmitted between notaries and administrative authorities in connection with the execution of real estate contracts. The scope of application includes electronic documents transmitted in connection with the permits under Sec. 22(1)(1), 51(1), Sec. 109(1), Sec. 144(1) and (2), Sec. 172(1)(4) and Sec. 250(1)(1) and Sec. 250(6)(1) BauGB, the certificates under Sec. 22(5)(5), Sec. 28(1)(3) and Sec. 145(6)(2) BauGB, the notification under Sec. 28(1)(1) BauGB or the transmission under Sec. 195(1) BauGB, because Sec. 213a BauGB-E is applicable to these operations.

Re Para. 2

Under Para. 2, Secs. 3 to 5 of the ERVV (Electronic Notarial Administration Exchange Regulation) on exceeding maximum limits, transmitting electronic documents with qualified electronic signatures and announcing technical standards shall apply accordingly to electronic documents transmitted within the framework of the electronic notary administration exchange.

Re Sec. 19 (Communications to the authority)

Sec. 19 ERVV-E regulates the communication channel between notaries and the authority.

Re Para. 1

If a notary transmits a copy of a deed to an authority within the framework of the electronic notary administration exchange, Sec. 2(1) and (2) ERVV shall apply to the transmitted copy accordingly. This stipulates that the copy must always be transmitted in the PDF file format and should comply with the technical standards published pursuant to Sec. 5(1)(1) and (6) ERVV. Whether the transmission of a copy is necessary and whether the transmitted copy must bear a qualified electronic signature shall be governed by the substantive law.

Re Para. 2

Sec. 19(2)(1) ERVV-E describes the technical requirements for applications for authorisation, which notaries submit as electronic documents pursuant to Sec. 213a(1)(1) BauGB-E, Sec. 25(1) GrdstVG-E and Sec. 12(1) GVO-E. As specified in Sec. 16(1) ERVV-E, these applications should consist of an XML structured dataset, so that an electronic copy of the previous paper application is not required. We refer to the justification contained therein. In addition, Para. 2(2) specifies further information which the XML structure dataset must contain in addition to the application. This information is intended to enable the approval authority to process the data automatically without having to extract it again from the transmitted deed. In addition, transfer errors in the preparation of the official decision can be avoided. However, the complete and error-free transmission of the aforementioned data in all parts is not a mandatory requirement for the application to be valid. In that regard, the general principles of administrative procedure prevail, according to which an application is only valid if the authority is able to determine the actual intended content of the application by means of an interpretation on the basis of the overall circumstances.

Notaries shall only be required to transmit the data on the property concerned contained in Para. 2(2)(5) if they are aware of such data. This is due to the fact that different land registry designations for properties are common in the Federal States and not all Federal States record the field of a property in the land registry, for example.

Re Para. 3

In accordance with Para. 3, the electronic document notifying the municipality of the content of the sales contract pursuant to Sec. 213a(1)(2) BauGB-E is also to be submitted as an XML structure file, although data on the parties involved need not necessarily be included in the dataset. This is intended to enable the notification of the content of the purchase contract pursuant to Sec. 28(1)(1) BauGB to continue to be carried out in a two-stage procedure in which only the data relating to the property is transmitted in the first stage for reasons of data economy. However, the complete and error-free transmission of the aforementioned data in all parts is not a mandatory requirement for the application to be valid. The application is already valid if the actual intended content of the application can be determined by interpretation based on the overall circumstances. If the municipal authority then responds that a right of first refusal is being considered, the complete details of the real estate contract will be sent.

Re Para. 4

Para. 4 stipulates that the copy of the deed submitted by the notary to the expert committee in accordance with Sec. 213a(1)(3) BauGB-E to the expert committee must be accompanied by an XML structured dataset in order to facilitate processing by the expert committees and to prevent the same data, which is ideally already available in structured form at the notary's office, from having to be collected again by the expert committees from the copy of the deed. In this context, notaries are required to always transmit certain basic data under Points 1 to 6. In any case, this data is likely to be on hand in structured form at a significant number of notary offices and could therefore also be passed on in this form. The date of compensation refers to the specification of the compensation in the form agreed in the contract and not to a specification of its monetary value, which is not always known to the notary, for example in the context of an exchange contract or when agreeing on rights of use as part of the compensation, and with regard to the specific quantification of which the notary is not obliged to make any enquiries, also for reasons of neutrality.

On the other hand, the data referred to in Point 7 only have to be transmitted if they are known to the notary. As such, a duty to investigate these data is not justified. On the one hand, it would be incompatible with the neutral role of notaries if they were able to demand the disclosure of price-determining circumstances from the parties involved, such as supplementary data, thereby giving the impression that they were siding with the party who would benefit from the disclosure of this information. Rather, the role of the notary is that of an impartial legal advisor and a public witness. On the other hand, such a disclosure obligation would be in conflict with the contractual freedom of the parties. It must be left to them to decide which circumstances they consider relevant in determining the compensation and on which to base the contractual relationship. The data referred to in Point 7 partly constitute supplementary data that are not typically available in every real estate contract in the notary’s office. However, situations are conceivable in which these data are disclosed to notaries and made the subject of the real estate contract. In these cases, notaries should also be obliged to transmit the reports to the expert committees. The residential or business addresses and email addresses of the parties involved must be provided, if known, in order to save the expert committees from having to conduct their own investigations and thus enable the expert committees to quickly contact the parties involved. This contributes to the timely collection of the data necessary for the purchase price collection.

Re Para. 5

Para. 5 is intended to make use of the authorisation to enact provisions for the event of technical malfunctions. If, in individual cases, it is temporarily impossible for the notary to transmit the electronic documents because, for example, a technical malfunction prevents the notary from sending them or the authority from receiving them, the documents shall be sent in paper form. The provision is intended to cover any system-related impossibility of electronic transmission for which the user is not responsible. With regard to the transmission of data to the expert committees, the obligation to transmit is restricted in the event of a technical malfunction to the effect that only a copy of the deed, also in this case with any associated annexes, must be sent in paper form. The transmission of a copy of the deed also ensures that the expert committees receive the data to be transmitted in accordance with Para. 4(1) to (6), as this data is evident from the notarial deed. The provision concerns the transmission channel and has no impact on deadline provision.

Re Sec. 20 (Transmission to the notary)

Sec. 20 ERVV-E provides for the communication channel between the authority and notaries. In addition to the content of the datasets and the rules on alternative means of transmission in the event of technical malfunctions, Sec. 20 ERVV-E contains provisions on the file format, which the authority must observe when transmitting electronic documents within the framework of the Notary Administrative Exchange.

The following distinctions must be made with regard to the usability of permits, certificates and attestations sent by the authority as electronic documents in the land register: If electronic legal communications with land registry offices have not yet been introduced in the Federal State in question, the notary must make the electronic document suitable for submission by creating a certified printout or a certified copy in accordance with Sec. 42(4) BeurkG (see Sec. 29(3)(3) GBO-E). In this context, the file format in which the electronic document is transmitted to the notary is of secondary importance, as long as it is possible to produce a printout or a copy that meets the requirements of the Land Register Code. Although this simple media transfer is generally undesirable, it must be accepted as a consequence of the slow progress in opening up electronic legal transactions to the land registry offices. If, on the other hand, electronic legal communications with land registry offices have already been established, Sec. 20(3) ERVV-E is intended to ensure that electronic documents voluntarily transmitted by the authority are acceptable for submission to the land registry office in terms of the details of data transmission and file format.

Re Para. 1

Sec. 20(1) ERVV-E regulates the technical requirements for the permits, certificates and attestations specified therein when these are transmitted as electronic documents and stipulates that they must be transmitted as XML structured datasets containing at least the information specified in Sec. 20(2) ERVV-E. This means that it is no longer necessary to submit electronic copies of permits, certificates and attestations that were previously issued in paper form. Since the substantive decision required for the purposes of land registry execution can be clearly formulated by the authority (permit granted, granted subject to a condition or not granted, certificate issued or not issued, attestation issued or not issued), it can also be readily represented as a simple date in a structure dataset. In the spirit of true digitisation, it should no longer be necessary for the authorities to create a visually perceptible notice from the data available to them, which is then forwarded in electronic form by the notaries to the land registry office, where this data must then be read out again from the visually perceptible notice. Rather, the use of XML structure datasets is intended to ensure that the data transmitted is machine readable.

In accordance with Sec. 213a(4)(3) BauGB-E, Sec. 25(2)(2) GrdstVG-E and Sec. 12(2)(2) GVO-E, permits, certificates and attestations issued as XML structured datasets must fulfil the prerequisites of Sec. 137(2) GBO.

However, the obligation to transmit the permits, certificates and certificates as electronic documents in the XML file format should only apply to the extent that the authority is obliged to transmit them as an electronic document by means of a Federal State statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, Sec. 26(4)(1)(2) GrdstVG-E and Sec. 13(4)(1)(2) GVO-E. This is intended to give the Federal States the possibility to adapt the file formats that can be submitted on the basis of a provision pursuant to Sec. 135(1)(2)(2) GBO when issuing a statutory instrument mandatory for electronic transmission pursuant to Sec. 213b(2)(1)(2) BauGB-E, Sec. 26(4)(1)(2) GrdstVG-E or Sec. 13(4)(1)(2) GVO-E to the requirements of Sec. 20(1) and (2) ERVV-E. As a result, the double media transfer described above can be avoided.

Re Para. 2

The data listed in Sec. 20(2) ERVV-E, which represent the minimum content of the permit, certificate or attestation dataset, are intended to ensure that the permit, certificate or attestation can be assigned to a specific transaction or property at the land registry office and to guarantee that the requirements for electronic documents pursuant to Sec. 137(2) GBO are met. In doing so, they implement the postulate from Sec. 213a(4)(3) BauGB-E, Sec. 25(2)(2) GrdstVG-E and Sec. 12(2)(2) GVO-E.

Re Para. 3

As long as no statutory instrument pursuant to Sec. 213b(2)(1)(2) BauGB-E, Sec. 26(4)(1)(2) GrdstVG-E or Sec. 13(4)(1)(2) GVO-E obliges the authority to transmit permits, certificates and attestations as electronic documents, Sec. 20 (3) ERVV-E is intended to ensure that electronic documents voluntarily transmitted by the authority are acceptable to the land registry office in terms of the details of the data transmission and the file format. The authority must therefore take account of the future standard as laid down in Sec. 20(1) and (2) ERV-E when drawing up the electronic documents and ensure that the electronic documents are suitable for processing by the land registry office with regard to technical requirements for data transmission and file format.

Re Para. 4

Para. 4 is intended to make use of the authorisation to enact provisions for the event of technical malfunctions. The provision corresponds to Sec. 17(3) ERV-E; reference is made to the explanatory memorandum there. A certified copy or print-out of an electronic document in accordance with the requirements of Sec. 29(3)(3) GBO shall also be sufficient for transmission in paper form.

Re Article 4 (Amendment to the Land Register Code)

Sec. 29(4) GBO-E is intended to supplement the formal requirements GBO in cases where registration requirements of Sec. 29(1) or (3) GBO are met in electronic form but are to be forwarded to the land registry office in paper form, for example because electronic legal communications have not yet been established for the competent land registry office. In such cases, a certified copy or a certified printout of the electronic document as defined by Sec. 42(4) BeurkG shall suffice to meet the formal requirements. However, this is under the condition that the electronic document meets the prerequisites of Sec. 137(1) or (2) GBO. In order to enable the land registry office to verify compliance with the conditions of Sec. 137(1) and (2) GBO, the documented result of the signature check required by(1) of Sec. 42(4) BeurkG must also confirm that the qualified certificate or a related qualified attribute certificate on which the signature is based shows the authority.

If the electronic document is only available in XML file format, any reproduction of the content of the electronic document in paper form that is perceptible to human observers shall be deemed to be a copy.

Sec. 29(4) GBO-E is also applicable in principle if, due to a technical malfunction, the authority or court transmits the document in paper form in accordance with Sec. 17(3) ERVV-E or Sec. 20(4) ERVV-E. Provided that jurisdiction has been established in this regard, the authority or court itself may also produce a certified copy or printout of an electronic document that meets the requirements of Sec. 137(1) or (2) GBO and send it to the land registry office or to the notary, who will then forward this copy or printout to the land registry office.

Re Article 5 (Amendment to the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction)

If minors or persons for whom a legal guardian has been appointed are involved in a real estate transaction, or where the transaction is subject to preservation of the estate, the validity of the transaction may be subject to the approval of the family, guardianship or probate court pursuant to Sec. 1643(1), Sec. 1799(1), each in conjunction with Sec. 1850(1)(2)(4) and (5), Sec. 1833(3)(1)(4), Sec. 1888(1) and Sec. 1962 BGB. In addition, pursuant to Sec. 17(3) of the HöfeO, the Agricultural Court has jurisdiction to approve a transfer contract within the scope of the HöfeO. The judicial procedure for granting the permit is governed by the FamFG in each case.

However, there is only a need for an arrangement in the FamFG with regard to the electronic transmission of court decisions to the notary. As regards the submission of applications and declarations, (1) of Sec. 14b(2) FamFG stipulates, among other things, that notaries should submit these as electronic documents. Special circumstances that would justify submission in paper form are hardly conceivable in the case of notaries, as they have been required to make active use of the EGVP communication structure for commercial register applications since 1 January 2007 and therefore have both the expertise and the technical infrastructure for electronic communication. In addition, pursuant to Sec. 14b(2)(2) FamFG, the court may request that an electronic document be subsequently submitted. In accordance with Sec. 14 (2)(2) FamFG, Sec. 130a (2)(2) ZPO and Sec. 16 ERVV-E, the electronic document with which a notary requests court approval must be transmitted as a structured machine-readable dataset in XML file format, which complies with the definition or schema files promulgated under Sec. 5(1)(2) ERVV and contains at least the name of the court, the file number of the proceedings, if known, the names of the parties to the proceedings, the subject matter of the proceedings and, if known, the file number of any proceedings concerning the same subject matter and the name of the authority keeping the files.

Re Point 1 (Amendment to the table of contents)

The amendment to the table of contents takes account of the insertion in Sec. 41a(2) of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (FamFG-E).

Re Point 2 (insertion of Sec. 41a FamFG)

The provision regulates the specific requirements for the electronic transmission of decisions concerning the authorisation of a legal transaction to notaries as judicial electronic documents.

Re Sec. 41a (Electronic promulgation; transmission; statutory authorisations)

Re Para. 1

The provision concerns the notification of a decision to a notary. It is not necessary for the notary to be a party to the proceedings as defined by Sec. 40(1) FamFG and thus the addressee of the decision. The decision will be notified to notaries within the framework of Sec. 41a(1) FamFG-E as authorised representatives for legal purposes. In notarial practice, notaries regularly act on the basis of a ‘double authorisation’. In this process, the certifying notary is authorised by the representative of a person under guardianship or a minor to receive the court approval and to communicate it to the other contracting party. On the other hand, the other contracting party is authorised to receive notification of receipt of the judicial approval. In exercising these powers, the notary draws up a document of his or her own in order to document receipt of the permit and the necessary notification. This established procedure makes it clear that the notary is not the addressee of the notification, but acts as the authorised recipient on behalf of the parties involved. The wording of Sec. 41a(1) FamFG-E is intended to cover precisely this case of the notary acting as a mere authorised recipient and does not make any statement about the role of the notary in the court proceedings.

Under current law, a decision can already be recorded as a judicial electronic document. Under Sec. 38(3)(2) FamFG, the signatures required are replaced by the fact that the persons responsible add their name at the end of the document and attach a qualified electronic signature to the document (Sec. 14(3) FamFG, Sec. 130b(1) ZPO). An electronic document to which a handwritten document has been transmitted pursuant to Sec. 298a(2) ZPO (Sec. 14(3) FamFG, Sec. 130b(2) ZPO) is also sufficient. The notification of a decision as an electronic document also triggers the start of the appeal periods (Sec. 63(3)(1), Sec. 71(1)(1) FamFG), as an electronic document also meets the text form requirement and thus fulfils the requirements for written notification as defined by Sec. 41(2)(4) FamFG (see *Obermann* in: BeckOK, FamFG, 50. Edition, dated: 1.5.2024, Sec. 41 FamFG, Recital 8a).

It is not currently required that qualified electronic signatures used to create court electronic documents must identify the court. However, this is necessary so that the document can also be used as evidence for the land registry office (Sec. 137(1)(2)(2) GBO). As such, Sec. 41a(1) FamFG-E stipulates that a qualified certificate underlying the signature used in the creation of a judicial electronic document, or an associated qualified attribute certificate, must be recognisable by the court.

The provision of Sec. 41a(1) FamFG-E is limited to the notification of such decisions to notaries public which concern the approval of a legal transaction, because only such decisions are used for the purpose of providing evidence to the land registry office. Since the legal transaction to be approved may be relevant for both entry in the land register and entry in a register, and in order to spare the approving court the task of determining in each individual case whether the decision to approve the legal transaction should be used at the land registry office or at a register, both types of permits should be in the form of an electronic document in accordance with the stricter form of Sec. 137 (1)(2)(2) GBO.

Re Para. 2

Sec. 41a(2) FamFG-E is intended to enable the Federal Government, with the consent of the Federal Council, to determine the technical details of the electronic transmission of court approvals of legal transactions to notaries and corresponds to Sec. 213b(4)(1), (3) and (4) BauGB-E. Reference is made to the explanatory memorandum therein. This authorisation is implemented in Sec. 17 ERVV-E. Unlike Sec. 213b(4)(3) BauGB-E, Sec. 41a(2)(2) FamFG-E does not contain any provisions for cases in which the electronic document is transmitted exclusively in structured, machine-readable form. This is based on the fact that the decision, in the form of a judicial electronic document, must always be transmitted as an image file, and the structured data is only transmitted as an accompaniment in the form of a supporting data record.

Re Point 3 (Amendment to Sec. 46 FamFG)

Proof must be provided to the land registry office not only of the decision approving the legal transaction, but also that the decision is final, for which serves the certificate of legal force under Sec. 46 FamFG. In accordance with Sec. 46(2) FamFG-E, the certificate of legal force issued by a notary as a judicial electronic document concerning a decision on the approval of a legal transaction must therefore meet the same requirements as those prescribed in Sec. 41a FamFG for the decision itself. Furthermore, when issuing a certificate of legal force as a judicial electronic document, the qualified certificate underlying a signature used in its creation, or an associated qualified attribute certificate, must allow the court to recognise the issuing authority. The addition to Sec. 46 FamFG enables the electronic transmission of court approvals, including certificates of legal force, by notaries to the land registry office in the form specified in Sec. 137(2) GBO.

Re Point 4 (Amendment to Sec. 113 FamFG)

The adaptation is a consequential amendment to the addition of a new Para. 2 to Sec. 46 FamFG. In matrimonial matters and family disputes, the obligation of the court to forward an electronic certificate of legal force to notaries should not apply, since permits to be presented to the land registry office or to a register are granted only in matters concerning children, guardianship and inheritance, as well as in agricultural matters.

Re Article 6 (Amendment to the Real Property Transfer Tax Act)

Re Point 1 (Amendment to Sec. 22a GrEStG)

The recast Sec. 22a GrEStG empowers the Federal Ministry of Finance, in agreement with the Federal Ministry of Justice and Consumer Protection and with the consent of the Federal Council, to regulate the details of data transmission, to lay down the file formats and accessibility requirements for the documents to be transmitted and to provide that information must be transmitted in a structured machine-readable form. The term ‘details of data transmission’ covers in particular file formats, the dataset and rules on the course of action in the event of technical malfunctions. The further amendments to the GrEStG contained in Articles 7 and 8 regulate the electronic transmission of the notification of sale and copy of the deed by notaries and, by analogy, the electronic transmission of the clearance certificate to notaries. The necessary amendments to the GrEStG will enter into effect at different times, so that there is a staggered digitalisation of communication between the financial administration and the notaries. The amendment to Sec. 22a GrEStG creates the necessary statutory authorisation in order to be able to provide for the technical requirements for this ahead of time in an ordinance.

Re Point 2 (Amendment to Sec. 23 GrEStG)

This is an ancillary amendment to Point 1.

Re Article 7 (Further amendment to the Real Property Transfer Tax Act)

Regarding Point 1 (Amendment to Sec. 18 GrEStG)

Re Subpara. (a)

The requirement that sales notifications pursuant to Sec. 18(1)(1) GrEStG must be made in writing and in accordance with the officially prescribed form should only apply to courts and authorities. Notaries should therefore be excluded from Sentence 1.

Notaries will now be required to submit sales notifications in electronic form according to the officially prescribed dataset and via the officially designated interface. The transmission shall be carried out according to the standard of Sec. 22a GrEStG-E and Sec. 93c of the Fiscal Code (AO).

Re Subpara. (b)

The notifications by the courts, authorities and notaries pursuant to Para. 1 shall be made pursuant to Para. 3 within two weeks of the notarisation or certification of the signature or the announcement of the decision, even if the validity of the legal transaction is dependent on the fulfilment of a condition, the expiry of a period or the granting of a permit. They must also be refunded if the legal transaction is exempt from taxation. The two-week period is a statutory period which cannot be extended by the competent tax office, unlike the period specified in Sec. 19(3) GrEStG for notifications by the parties involved in accordance with Sec. 19(1) and (2) GrEStG. The possibility of extending the deadline arises for the parties directly from Sec. 109 Fiscal Code, because notifications by the parties pursuant to Sec. 19(5) GrEStG constitute tax declarations as defined by the Fiscal Code. The newly inserted Sec. 18(3)(3) GrEStG essentially eliminates the unequal treatment of courts, authorities and notaries vis-à-vis the parties involved. The tax office responsible for the decision on the extension of the deadline is granted a margin of assessment, which enables it to extend the deadline in justified exceptional cases. For example, in the event of a technical malfunction at the tax office that temporarily prevents the electronic transmission of the notice of sale, notaries can be granted an extension of the deadline without any red tape. The restrictive criterion takes into account the increased duty of care of courts, authorities and notaries compared to the parties involved.

Re Subpara. (c)

Under Para. 18(4) GrEStG-E, only courts and authorities are required to record on the original or the retained certified copy of the deed when and to which tax office the notice of sale was sent. In compulsory auction proceedings, the information should continue to be noted on the original copy of the decision. Notaries, on the other hand, should note this information in the register of deeds in future, so that the notarial addenda to the deeds that were previously required due to the note pursuant to Sec. 18(4) of the Real Property Transfer Tax Act (GrEStG) will become superfluous. This is thus an alignment with the procedure for issuing copies pursuant to Sec. 49(4) BeurkG.

Re Point 2 (Amendment to Sec. 22a GrEStG)

In order to enable a comprehensive electronic execution of the notarial real estate contract, Sec. 22a GrEStG-E is intended to make it possible for notaries to submit the notification of sale to the tax offices in electronic form and to send the deed by electronic means while making the notification of sale.

Para. 1 provides that the secure procedure referred to in Sec. 87a(6) or (8) of the Fiscal Code shall apply to the transmission of the notification or transmission of the copy of the deed and the clearance certificate.

Para. 2 contains the statutory authorisation contained in the version of Sec. 22a GrEStG-E provided for by Article 6, with no changes to its content. Re Point 3 (Amendment to Sec. 23 GrEStG)

This is an ancillary amendment to Point 2.

Re Article 8 (Further amendment to the Real Property Transfer Tax Act as of 1 January 2028)

Re Point 1 (Amendment to Sec. 22 GrEStG)

The new sentences added to Para. 2 establish a special rule for the electronic issue and transmission of the clearance certificate to notaries and the submission of the clearance certificate thus submitted by notaries to the land registries.

The provision in the new Sentence 5 is intended to oblige the tax offices to issue and transmit the clearance certificate to a notary in electronic form in accordance with Sec. 22a GrEStG-E. This obligation shall apply from 1 January 2028 in accordance with the provision governing its entry into effect in Article 19(4). This creates the conditions for further use without any media discontinuity.

The provision in Sentence 6 waives the execution suspension pursuant to Sec. 22 of the Real Property Transfer Tax Act (GrEStG) if a notary submits the clearance certificate or a printout thereof to the land registry office in electronic form. The latter option is necessary because electronic legal communications with the land registries have not yet been been established nationwide. In future, when a clearance certificate is presented by a notary, it will therefore no longer be necessary for it to be in the form of a public deed. Sentence 6 GrEStG-E clarifies in this regard that the requirements of Secs. 29 and 137 GBO do not apply to clearance certificate transmitted in electronic form or submitted as printouts by a notary. This simplification only applies if the clearance certificate is submitted by a notary.

The level of protection of the electronic transmission channel under Sec. 22a GrEStG-E is lower than the level of protection conveyed by Sec. 137 GBO, as this requires qualified electronic signatures, among other things. The waiver of the form of Secs. 29 and 137 GBO for the clearance certificate as a mere procedural declaration is justified solely because the suspension of execution serves exclusively to secure the land transfer tax revenue and has no significance for the validity of the acquisition of ownership and the accuracy of the land register. However, where the accuracy of the land register is affected, the strict form of Secs. 29 and 137 GBO must be maintained. Because the clearance certificate is no longer submitted to the land registry office by a notary in the form of a public deed, but as a simple (unsigned) electronic document or as a simple printout, the land registry office is neither obliged nor able to verify the authenticity of the clearance certificate submitted. Unlike declarations concerning the material acquisition of rights, for which the form specified in Secs. 29 and 137 of the German Land Registry Act (GBO) must be strictly adhered to in order to ensure the accuracy of the land register, the procedural safeguarding of land transfer tax revenue through the means of transmission specified in Sec. 22a GrEStG-E between the tax offices and the notaries as holders of public office and submission by the notaries to the land registry office in accordance with Sec. 22(2)(6) and (7) GrEStG-E.

Notaries may only transmit those clearance certificates electronically or submit printouts thereof which they have received in accordance with Sec. 22a GrEStG-E to the land registry office under Sentence 7. Under Sec. 22a GrEStG-E, in conjunction with the ordinance yet to be enacted pursuant to Sec. 22a(3) GrEStG-E, notaries are to receive clearance certificates through the closed transmission system of the tax authorities. In addition, like the land registry offices, notaries are neither obliged nor able to verify the authenticity of the clearance certificate submitted. In order to protect the tax revenue, it is sufficiently ensured by the transmission channel to notaries and the electronic transmission of the clearance certificate or by the submission of the printout of the clearance certificate by notaries to the land register offices that the clearance certificates have been issued by the tax authorities.

Re Point 2 (amendment to Sec. 22a GrEStG)

In accordance with Sec. 22(1)(1) of the Real Property Transfer Tax Act (GrEStG), the clearance certificate from the property transaction tax office is a prerequisite for the registration of the purchaser in the land register and thus a prerequisite for the execution of a notarial real estate contract. In order to enable comprehensive electronic execution of notarial real estate contracts, Sec. 22a GrEStG-E is intended to enable the electronic submission of the notice of sale by notaries to the tax offices, the transmission of the deed in the course of the notice of sale and, on the other side, the issue and transmission of the clearance certificate by electronic means.

Para. 1 provides that the secure procedure referred to in Sec. 87a(6) or (8) of the Fiscal Code shall apply to the transmission of the notification or transmission of the copy of the deed and the clearance certificate.

Para. 2 is intended to clarify that a violation of the obligation to transmit the certificate pursuant to Sec. 22(2) as an electronic document does not render the certificate invalid.

The statutory authorisation contained in Para. 2 of the version of Sec. 22a GrEStG-E governed by Article 7 is now found in Para. 3.

Re Point 3 (Amendment to Sec. 23 GrEStG)

This is an ancillary amendment to Point 2.

Re Article 9 (Amendment to the Inheritance Tax and Gift Tax Act)

(Amendment to Sec. 34 ErbStG)

Re Point 1

The requirement that notifications pursuant to Sec. 34(1)(1) ErbStG must be made in writing shall only apply to courts, authorities and civil servants. Notaries should therefore be excluded from Sentence 1.

Sentence 2 obliges notaries in future to submit a notification in electronic form in accordance with an officially prescribed dataset via the officially determined interface in accordance with Sec. 93c of the Fiscal Code. According to Sentence 3, the electronic submission of the notification by the notaries pursuant to Sentence 2 and the transmission of copies of the dispositions and documents referred to in Sec. 7(1) of the Inheritance Tax Implementation Ordinance and the deeds referred to in Sec. 8(1) of the Inheritance Tax Implementation Ordinance must be carried out using a secure procedure in accordance with Sec. 87a(6) of the Fiscal Code.

Re Point 2

Insofar as Sec. 34(2)(2) of the Inheritance Tax Act (ErbStG) stipulates a notification duty on the part of notaries with regard to the issuance of certificates of inheritance, European certificates of succession, certificates of executorship and certificates of continuation of community of property, decisions on declarations of death and the ordering of estate administration and estate management, this only affected state notaries in Baden-Württemberg (*Küperkoch*, RNotZ 2002, 298, 304; *Klöckner*, ZEV 2011, 299, 300). With the reform of the notarial system in Baden-Württemberg on 1 January 2018, the state notarial system was abolished, meaning that the provision no longer applies in this respect.

Re Article 10 (Amendment to the Inheritance Tax Implementation Ordinance)

Re Point 1 (amending Sec. 7(5) ErbStDV)

The amendments to Sec. 7(5) ErbStDV-E are intended to stipulate that notaries shall make the notification in electronic form in accordance with Sec. 34(1)(2) ErbStG-E.

According to the recast version, it will no longer be necessary to note on the original deed the date on which the notification was sent to which tax office. This information is now to be recorded in the register of certificates, so that the supplements to the certificates that were previously required become superfluous due to the note. Reference is made to the explanatory notes on Article 7(1)(c).

Re Point 2 (Amendment to Sec. 8 ErbStDV)

The amendments to Sec. 8(4) ErbStDV correspond to the amendments to Sec. 7(5) ErbStDV-E. Reference is made to the explanatory memorandum there.

Re Article 11 (Amendment to the Fiscal Code)

This is a consequential amendment to the amendment to Sec. 22a GrEStG-E. The datasets received by the Federal State tax authorities pursuant to Sec. 22a GrEStG-E can only be transmitted to the Central Office for Financial Transaction Investigations if the technical and organisational prerequisites for this have been established. Until that date, the current version of Sec. 31b(2b) AO shall be deleted.

Re Article 12 (Further amendment to the Fiscal Code)

In accordance with Sec. 31b(2b) of the draft law Fiscal Code (AO-E), the state tax authorities shall transmit the datasets received in accordance with Sec. 22a (GrEStG) to the Central Office for Financial Transaction Investigations using an automated procedure. Transmission by automated means may only take place from the date on which the technical and organisational prerequisites for doing so have been established. This is ensured by the entry into effect provision in Article 19(5).

Re Article 13 (Amendment to the Money Laundering Act)

This is a consequential amendment to the amendment to Sec. 22a GrEStG-E. The Central Office for Financial Transaction Investigations can only collect and process the datasets received by the Federal State tax authorities pursuant to Sec. 22a GrEStG-E once the technical and organisational prerequisites for doing so have been established. Until that time, the current version of Sec. 31(5a) of the Money Laundering Act shall be deleted.

Re Article 14 (Further amendment to the Money Laundering Act)

Under Sec. 31(5a) of the draft law Money Laundering Act (GwG-E), the Central Office for Financial Transaction Investigations collects and processes the datasets received by the Federal State tax authorities in accordance with Sec. 22a GrEStG-E by automated procedure. The collection and processing in the automated procedure can only take place from the date on which the technical and organisational prerequisites for this have been established. This is ensured by the entry into effect provision in Article 19(5).

Re Article 15 (Amendment to the Property Transactions Act)

In accordance with Sec. 2(1) GrdstVG, the legal sale of a property and the contract governing this sale require approval if the sale concerns agricultural or forestry land or moorland or wasteland that can be cultivated for agricultural or forestry purposes. The same applies to transactions that are equivalent to the sale of a property in accordance with Sec. 2(2) GrdstVG. Under Sec. 7(1) GrdstVG, the land registry office may only enter the legal change once it has been proven that the permit is final.

This means that the permits, certificates pursuant to Sec. 5(1) and Sec. 6(3) GrdstVG and attestations pursuant to Sec. 11(2) GrdstVG constitute conditions for the execution of a real estate contract. It should therefore be possible to apply for and issue permits, certificates and attestations by transmitting electronic documents, as provided for in Secs. 213a and 213b BauGB-E, which correspond in content to Secs. 25 and 26 GrdstVG-E. We refer to the justification contained therein.

Sec. 25(3) GrdstVG provides for an exception in cases where permits, certificates and attestations are issued by the court in accordance with the provisions of the Order on Farms. At this point, the legal concept of ‘administrative order’ covers all provisions of administrative law, i.e. not only the administrative order in the version promulgated on 26 July 1976 (Federal Law GazetteI p. 1933), as last amended by Article 1 of the Act of 4 December 2024 (Federal Law Gazette 2024 I No 395), but also, for example, the Act on the Administrative Order for the Federal State of Brandenburg (BbgHofOG) of 19 June 2019 (Law and Ordinance GazetteI/19 No 28), amended by the Act of 20 June 2024 (Law and Ordinance GazetteI/24 No 27, p., ref. no. 37).

Re Article 16 (Amendment to the Property Transactions Ordinance)

Under Sec. 2(1) GVO, the real estate contracts referred to therein require authorisation, provided that the land in question is situated in the territory referred to in Article 3 of the consent agreement and that there are no exceptions. Under Sec. 2(2)(1) GVO, the land registry office may only register the legal change if the permit decision has been submitted to it.

A permit as per Sec. 2(1) GVO thus constitutes a prerequisite for the execution of a real estate contract. It should therefore be possible to apply for and issue permits by transmitting electronic documents, as provided for in Secs. 213a and 213b BauGB-E, which correspond in content to Secs. 12 and 13 GVO-E. We refer to the justification contained therein.

Re Article 17 (Amendment to the Property Law Adjustment Act)

This is a consequential amendment to the insertion of Sec. 195(2) and (3) BauGB-E, whereby Sec. 195(3) BauGB referred to in the previous version of Sec. 97(1) of the Property Law Adjustment Act becomes Sec. 195(5) BauGB-E.

Re Article 18 (Amendment to the Valuation Act)

The standard land values as defined by Sec. 196 BauGB are of considerable importance for various tax assessment purposes.

The proposed amendment to Sec. 179(2) BewG [Valuation Act] will therefore – following the amendment to Sec. 196(3)(1) BauGB and in accordance with Sec. 247(2) BewG on property tax assessment – explicitly standardises a legal obligation to transmit the standard land values determined by the expert committees to the competent tax authorities in electronic form in accordance with the officially prescribed dataset via the officially designated interface for the purposes of inheritance and gift tax as well as land transfer tax.

Re Article 19 (Entry into effect)

Re Para. 1

This draft law shall enter into effect on the first day of the second quarter following its promulgation. The technical prerequisites for implementing electronic communication between notaries and courts or administrative authorities and for the electronic investigation of notices of sale by notaries to tax offices are already in place, at least in part. For example, electronic communication between notaries and expert committees is already taking place on a voluntary basis in some cases. There are no disadvantages for those administrative authorities that are not yet able to communicate in electronic form, as the power of notaries and the obligation of administrative authorities to communicate in electronic form must first be established by the enactment of a Federal State statutory instrument. The expert committees are already connected to the electronic communication system, so that electronic communication can take place across the board without any problems. Similarly, the electronic transmission of notices of sale by notaries to tax offices is already being piloted, and the technical prerequisites for widespread use are in place.

Re Para. 2

With regard to the statutory authorisation contained in Sec. 22a GrEStG-E, this draft law is to enter into effect on the day following its promulgation. This is necessary so that the Federal Ministry of Finance can begin the enactment process for the relevant statutory instrument as soon as possible. The deletion of the rules on the exchange of datasets in the automated procedure between state tax authorities and the central office for financial transaction investigations shall also enter into effect on the day following the promulgation of this draft law. This is necessary due to the amendment to Sec. 22a GrEStG that will enter into effect at that time, to which reference is made in Sec. 31b(2b) of the Federal Fiscal Code (AO) and Sec. 31(5a) of the Money Laundering Act (GwG).

Re Para. 3

Sec. 195(3)(2) BauGB-E provides for the expert committees' obligation to enable compliance with the notification duty under Sec. 195(2) BauGB-E directly by using an electronic form on the internet. A period of at least six months after the promulgation of this Act is required for the development of the technical prerequisites for this online form. The subsequent entry into effect of the second sentence of Sec. 195(3) BauGB-E gives sufficient time to develop the substantive and technical forms to fulfil the notification duty.

Re Para. 4

Sec. 22(2)(5) GrEStG-E and thus the obligation for tax offices to issue clearance certificates to notaries in electronic form will only apply from 1 January 2028. The corresponding technical provisions in this regard in Sec. 22a(1)(2) and Para. 2 GrEStG-E shall also enter into effect accordingly from that date.

Re Para. 5

Articles 9, 10, 12 and 14 shall not enter into effect until the date on which the respective technical and organisational prerequisites for the respective electronic transmission are in place. In this respect, unlike in the case of the execution of real estate purchase contracts, there is no fixed date for the notification and transmission of the copy of the deed in accordance with the ErbStG and ErbStDV at which the obligation for electronic communication between notaries and tax offices takes effect, regardless of whether the aforementioned prerequisites are in place. Furthermore, the transfer of datasets between the state tax authorities and the Central Office for Financial Transaction Investigations is not to take place automatically from a fixed date, but only once the technical and organisational prerequisites for this are in place.