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Answer given by Ms Roswall
on behalf of the European Commission
(30.6.2025)

Article 6(4) of the Habitats Directive¹ provides that if, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State must take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It must inform the Commission of the compensatory measures adopted which enables the Commission to assess the manner in which the overall coherence of the Natura 2000 network will be maintained in the long term. Appropriate compensatory measures are therefore necessary to obtain a positive Commission's opinion.

The compensatory measures must ensure the overall coherence of the network and may include the enlargement of an existing site or a designation of a new site. Thanks to this legal requirement the Natura 2000 site concerned is not called into question.

It is however appropriate to assess, in the first place, whether mitigating measures pursuant to Article 6(3) of the Habitats Directive, could be useful to tackle the adverse effects of the project to the protected site. According to the competent German authorities, 75% to 100% of the adverse effect of the project A33 on protected habitat types are caused by nitrogen deposition. A temporary speed limit during periods when the concentration is above the legal threshold may be an efficient mitigation measure to reduce emissions.

¹ Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, OJ L 206, 22.7.1992, p. 7–50.