



The  
Federal Government

# Better Regulation 2012: Reducing Regulatory Burden Cutting Red Tape Securing Dynamic Growth

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Establishment of a National Regulatory Control Council

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# Content

- Preface ..... 4
- A. Reducing bureaucracy ..... 6
  - A.1 Reducing the administrative costs incurred by business..... 6
  - A.2 Measurement of compliance costs in certain areas ..... 9
  - A.3 Other projects ..... 15
- B. Development of compliance costs..... 17
  - B.1 General ..... 17
  - B.2 Experience of the methodology used to estimate compliance costs ..... 18
  - B.3 Interministerial analyses of the development of compliance costs ..... 20
  - B.4 Developments at individual ministries ..... 22
- C. The Better Regulation Work Programme ..... 41
  - C.1 Overarching, and cross-level examinations ..... 41
  - C.2 Joint investigations with business associations ..... 46
  - C.3 Evaluation methods ..... 48
  - C.4 Electronic support system for preparing draft regulations ..... 50
  - C.5 Open government and consultation procedures ..... 50
  - C.6 Disclosure Obligation Guide..... 51
  - C.7 Cooperation with other stakeholders ..... 51
- D. International cooperation ..... 54
  - D.1 European Union..... 54
  - D.2 Organization for Economic Cooperation and Development..... 56
  - D.3 International Regulatory Reform Conference..... 57
- Annexes ..... 59
- Appendix: Cabinet decision of 28 March 2012..... 62
  - Strategy for the evaluation of new legislative proposals under Section II.3  
of the Federal Government’s Better Regulation Work Programme  
of 28 March 2012..... 64
  - Enhancing the EU ex ante procedure ..... 66

## Preface



In recent months, the Federal Government has achieved a number of its aims regarding bureaucracy reduction and better regulation:

- The administrative costs of businesses have been reduced by 25% compared to 2006.
- In 2012, the ongoing compliance costs of businesses were reduced by about €100 million annually.
- Businesses' administrative costs have remained almost stable, the 0.25% increase being negligible.
- The expected impact on citizens and public authorities is clearly explained to those responsible in government and parliament before the relevant decisions are taken. The Federal Government is nearing its goal of preventing any further rises to the burdens imposed on families, single-person households, the elderly and the young.

This positive development is down to the federal ministries' numerous initiatives documented in this report, its annexes, and the very detailed public databases of the Federal Statistical Office. An initial impression of the breadth and diversity of these measures is provided by the following examples:

- Nearly all private companies in Germany will benefit from the new, contemporary Principles for the Proper Keeping and Storage of Books, Records and Documents in Electronic Form as well as Data Access (GoBD). They will lead to more clarity

about the application of the law by the tax authorities, simplify proper accounting in everyday business, and encourage the further digitization of accounting.

- Many measures will also help to facilitate civic involvement. From bureaucracy reduction for small cooperatives through raising tax relief for volunteers working for non-profit organizations to the limitation of liability for those working in an honorary capacity, the principle is that neither the state nor public authorities should stand in the way of those who give up their time to help others.
- The E-Government Act simplifies electronic communication by companies and especially citizens with public authorities. Thanks to outstanding cooperation between different ministries and departments, businesses in particular will benefit from the expected reduction of administrative costs.
- As soon as regulations are being prepared, in future the Federal Government will specify criteria for their subsequent, systematic evaluation.

Working for better legislation is an ongoing task. With state regulation having to meet a constant stream of new requirements, we always need to thoroughly check whether there are simpler ways of doing things. The progressive harmonization of European law also provides an opportunity to learn from good solutions adopted elsewhere. Furthermore, constant attention needs to be paid to the

internal structure of our legislation as well as the diversity and ambiguity of the terms used.

To my mind, it is particularly important that the Federal Government is addressing the most burdensome accountancy regulations. The positive effect of reducing administrative and compliance costs on personal liberty and the rule of law, employment, competitiveness and the quality of administrative processes should not be hampered by new burdens.

Nevertheless, the Federal Government will have to keep tabling legislative initiatives which are a burden on citizens, businesses and public authorities. For example, in the Federal Government's view, there can be no doubt that the additional burdens for businesses caused by the Market Transparency Unit Act and for citizens resulting from the Microcensus Act Amendment Act 2005 are necessary and that the level of these burdens is justified.

As a result, all those involved in the process of regulation will have a better knowledge of the impact that their decisions are likely to have. In addition, the Federal Government has set itself a far-reaching goal for the development of compliance costs and administrative costs: the burden of compliance with federal law is to be made permanently low for citizens, businesses and public authorities. This objective provides a strong incentive for each bill to reduce compliance costs and to minimize any burdens.

Our success is demonstrated by the growing international interest in Germany's efforts towards bureaucracy reduction and better regulation. At the start of 2013, the International Regulatory Reform Conference hosted by the Federal Government and held under the banner of "Accountability, Transparency,

Participation: Key Elements of Good Governance" was attended by delegates from more than forty nations and supranational organizations.

This success is based on the excellent cooperation by the federal ministries with the independent National Regulatory Control Council, with local authorities and the *Länder*, self-governing organizations, and of course with citizens, businesses and public authorities.

The preparation of draft legislation and involvement in simplification projects create plenty of work for all those involved. However, this effort is justified in every single case by the fact that, as a result, legislation is made more realistic, more comprehensible and easier to carry out.

Nevertheless, it is unfortunate that opinions on striking a suitable balance between the political objectives of individual ministries and the goals of better regulation are frequently so divergent. The most prominent example of this (but by no means the only one) is the defeat of the Federal Government's initiative to shorten the length of time for which tax-relevant documents must be kept by the combined resistance of all the *Länder* in the Bundesrat. Despite the goals that have been achieved, there is still much to be done.



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## A. Reducing bureaucracy

In its Programme for Bureaucracy Reduction and Better Regulation adopted in 2006, Germany's Federal Government decided to measurably reduce administrative costs incurred by businesses to an absolute minimum. Other aims were to make the consequences of new regulations transparent and to encourage alternative solutions in order to raise acceptance for government action. This meant simplifying laws and regulations, making forms and procedures clearer, and enabling applications to be filed more easily (e.g. electronically).

Over the past six years, a shift in consciousness has taken place, and the impact of future laws and regulations is now taken into account when they are drafted.

This has been made possible by the introduction of a clear, transparent method of measuring administrative costs and the monitoring of its uniform application by the Federal Statistical Office and the National Regulatory Control Council (NKR).

Based on its experience of measuring administrative costs and reducing bureaucracy, in January 2010 the Federal Cabinet decided to improve transparency by including all the resulting costs of laws ('compliance costs') in the impact assessment.

Section A provides an overview of the progress made in bureaucracy reduction and projects to measure compliance costs.

### A.1 Reducing the administrative costs incurred by business

#### 1. Progress

In 2007, the Federal Government set itself the task of cutting the administrative costs incurred by businesses by 25% by the end of 2011. Starting from a baseline of €49.3 billion in 2006, this corresponded to an annual reduction of €12.3 billion.

Since 2006, the federal ministries have initiated a variety of legal amendments and procedures to reduce the administrative costs incurred by businesses. By the end of 2011, the reduction totalled about €11 billion annually.

For example, the Accounting Law Modernization Act (BilMoG) abolished the obligation to maintain accounting records, the annual inventory for large retail merchants, and accounting obligations under the German Commercial Code for medium-sized sole traders falling below certain size criteria. The Tax Simplification Act of 2011 relaxed the standards imposed on electronically transmitted invoices and gave electronic bills the same status as paper ones.

In 2012, the Federal Government continued to take action to reduce the administrative costs incurred by businesses, cutting them by a further €1.2 billion annually. As a result, the Federal Government achieved its goal of reducing the administrative incurred by businesses by a net 25%. Under the net principle, any new administrative costs are taken into account in full.

The 25% target was achieved thanks to the following legislative initiatives (for more details see Section B):

- The E-Government Act adopted by the Federal Cabinet on 19 September 2012 is intended to simplify electronic communication by citizens and businesses with public authorities. The law permits easy, secure technical procedures that replace the written form. Together with amendments to the Vocational Training Act and the Trade and Crafts Act allowing the electronic registration of apprenticeship contracts, this shortens the time required by businesses to meet their disclosure obligations. As take-up of the options allowed by the new law grows, administrative costs will be reduced by up to €193 million annually. The exclusive use of electronic means for data transmission under the Federal Statistics Act will enable businesses to save another €15 million every year.

- The Corporate Taxation and Travel Expenses Tax Law Amendment and Simplification Act will save businesses about €35 million every year.
- One of the items contained in the Need for Care Services in In-Patient Care Facilities and Rehabilitation Clinics Act adopted on 7 November 2012 was the abolition of the quarterly practice charge. The related notification and documentation obligations at GPs' and dentists' surgeries as well as hospitals' accident and emergency departments were eradicated at the start of 2013, saving €336 million in administrative costs every year.
- The Act on the Reorganization of Public-Sector Accident Insurance Institutions, the Amendment of the Social Courts Act and the Amendment of Other Acts substantially simplified the issuance of certificates of employment for applications for unemployment benefit. It also paved the way for certificates to be sent in future electronically to the Federal Employment Agency. This act adopted by the Federal Cabinet on 19 December 2012 will save more than €50 million annually.
- In addition, the Federal Government has overhauled the Population Statistics Act and amended the Restraint of Competition Act in order to improve anti-trust regulations as much as possible.

Another significant reduction has been achieved by the new Principles for the Proper Keeping and Storage of Books, Records and Documents in Electronic Form as well as Data Access (GoBD) prepared since 2012. The GoBD are coordinated in cooperation between the tax authorities of the Federal Government and the *Länder*, business associations and tax consultants. Following publication in the Federal Tax Gazette, they are to be updated regularly. This document contains a handy summary of the financial authorities' requirements to be met by IT-based accounting from set-up through ongoing operation to replacement, and provides businesses with the legal clarity that they need. The associated ad-

ministrative saving closes the final gap required to achieve the 25% reduction target.

In addition, in 2012 the results of the reassessment of administrative costs (see section B.2) had to be taken into account in calculations. For example, the reduction in the need to ascertain bidders' reliability and efficiency required under public procurement law has led to additional savings of approximately €128 million per year. An additional reduction resulted from the reassessment of the Banking Act (KWG) in conjunction with the Solvency Regulations. The new findings on disclosures to verify sufficient equity since 2007 have reduced the administrative costs under the Banking Act by €173 million annually.

However, some of the measures initiated by the Federal Cabinet on 14 December 2011 still need to be developed further before they can be implemented. For example, the social security reporting procedures provided for by the project "Optimized reporting methods in social security" scheduled to run until the end of 2013 need to be reviewed (see section C.1).

The process data accelerator (P23R) has entered a new phase during which a way of ascertaining its effectiveness in practical usage and a roadmap for its widespread introduction are to be drawn up. In addition, the level of savings that can be achieved by businesses through the application of P23R needs to be calculated. Several pilot projects are to be carried out to assess its efficiency in 2013. For example, the pilot project eLISA (E-Government *Land* Information System for Facilities) has already been launched in cooperation with *Land* Hessen. And the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety has launched a pilot project entitled "Operational environmental data reporting based on the P23R principle – the use of standardized reporting components".

The Federal Government aims to reduce the routine tasks respondents are expected to carry out by encouraging public authorities to make use of existing data whenever possible. As a result, nearly half of all federal statistics are now gleaned from existing administrative records. In recent years, significant progress has been made

in this regard. For example, the use of administrative data for economics statistics in automotive sales and wholesale has enabled over 8,000 companies (more than half of respondents) to be exempted from direct surveys since September 2012.

To deliver further reductions in other administrative areas, too, a review is being conducted to establish what information that has to be published or filed by law can in future also be used by other public authorities.

The implementation of these additional measures to reduce the administrative burden on businesses ultimately also depends on successful cooperation with the Bundesrat and the German Bundestag. The Federal Government is confident that the administrative costs for businesses can continue to be significantly reduced in the future if all those responsible pull together.

## 2. Bureaucracy Cost Index

### 2.1. Introduction of the Bureaucracy Cost Index

The Federal Government feels obliged to robustly safeguard the successful reduction of the administrative costs incurred by businesses. To this end, on 28 March 2012 the Federal Cabinet decided in connection with its Better Regulation programme to reveal the changes to businesses' administrative costs in Germany by using a Bureaucracy Cost Index (BKI).

The baseline (100) is the administrative costs of businesses at 1 January 2012. The BKI is affected by decisions taken by the Federal Government which impact on businesses' administrative costs. The BKI falls if the Federal Government introduces regulations that reduce businesses' administrative costs, and it rises if new regulations come in which increase their administrative burden.

The underlying data for the BKI is that of the database on administrative costs maintained by the Federal Statistical Office. To ensure that the BKI is up to date, the various ministries submit their legislative proposals to the Federal Statistical Office once they have been adopted by the Federal Cabinet. In the event of ministerial

regulations which need not be forwarded to the Cabinet, this is done once legislative proposals have been adopted. The Federal Statistical Office records the new or altered disclosure obligations in the database and calculates the BKI at the end of each month. The Federal Government publishes the current BKI and its development on the fifteenth day of the following month in a graph.<sup>1</sup> This means that once legislative proposals have been adopted by the Federal Government, their impact on businesses' administrative costs is made known shortly afterwards.

When the BKI was introduced, the Federal Statistical Office adapted the calculation of administrative costs of businesses in its databases to current developments with effect from 1 January 2012. In the first step, the labour cost tables, which were previously based on 2006, were converted to values for 2011. The Federal Statistical Office also updated the other parameters for the calculation of administrative costs, such as time, the number of cases and additional costs. The database will have to be similarly updated in the future at certain intervals in order to keep the data current. Since update measurement reflects macroeconomic effects but not the impact of legal changes, it does not affect the BKI.

### 2.2. Development of the Bureaucracy Cost Index in 2012

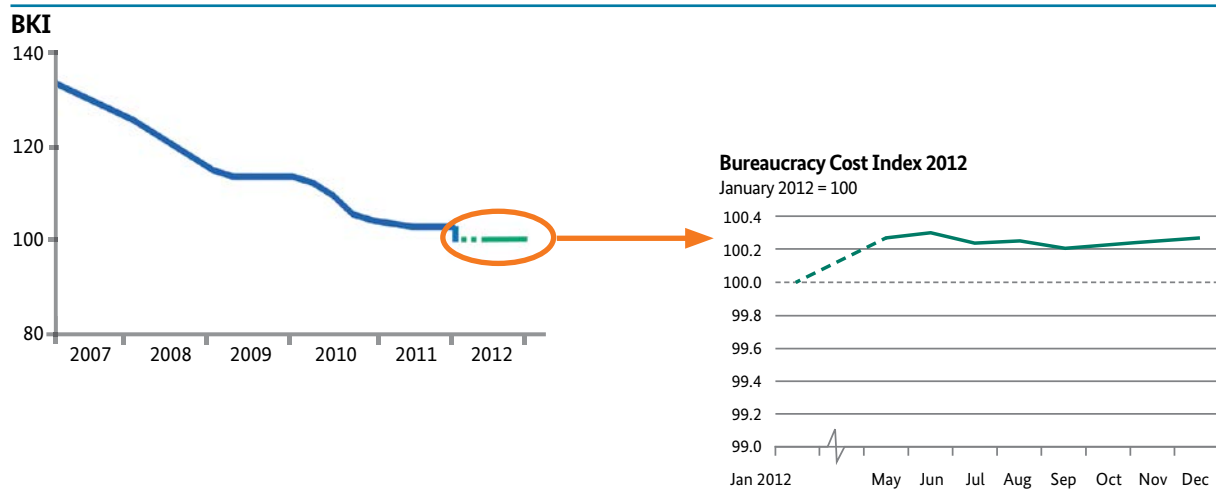
The BKI was first calculated for May 2012. The legislative proposals adopted in the first five months of 2012 caused it to rise slightly to 100.27. The main reasons were as follows:

- The Financial Investment Brokerage Regulations with new disclosure obligations for providers of financial services amounting to €85 million annually;
- The 26th Ordinance Amending Narcotics Legislation (+ €12 million annually); and
- Industrial Emissions Directive Implementation Act (+ €12 million annually).

<sup>1</sup> The BKI is published on the Internet on the Federal Government's website at <http://www.bundesregierung.de/buerokratieabbau> and on the website of the Federal Statistical Office at <https://www.destatis.de/DE/ZahlenFakten/Indikatoren/Buerokratiekosten/Ergebnisse/Buerokratiekostenindex/Buerokratiekostenindex.html>.



The development of the BKI in 2012 shows that the Federal Government managed to safeguard its successful reduction of administrative costs for businesses.



On the other hand, the costs of disclosure obligations were reduced by €24 million annually through simplified reporting on the safety of medicines (Second Drugs Legislation and Other Provisions Amendment Act).

In the second half of the year, the BKI fluctuated slightly but remained at this low level. New administrative burdens resulted from the Insurance Regulations Amendment Act (+ €19 million annually) and the High Frequency Trading Act (+ €17 million annually). Then again, simplifications to the accounting rules for micro-enterprises enabled administrative costs to be cut by €40 million annually.

In 2012, the Federal Government adopted a total of 69 legislative proposals which affected businesses' administrative costs. The tiny increase of the BKI by 0.27% shows that these administrative costs were kept low in 2012. This figure does not take into account additional reductions stemming from measures already initiated in the position paper dated 14 December 2011 to meet the reduction target but for which legislation only came into effect in 2012.

## A.2 Measurement of compliance costs in certain areas

On 27 January 2010, the Federal Cabinet also decided to launch eight projects in cross-cutting policy areas. Their aim was to bring about significant simplifications for citizens, public authorities and businesses while maintaining existing standards. In addition to the more efficient structuring and simplification of existing procedures, these projects were in particular seen as a way of gaining practical experience in measuring compliance costs. The investigations deliver a methodological contribution to assessing the impact of new regulations (for more detail see section B).

One finding from the projects is that compliance costs often result from substantive law rather than from procedures. Radical simplification would therefore entail the reduction of standards, something which was not addressed in these projects. It was also found for instance that the responding companies carried out the responsibilities of "corporate commissioners" in their own interest even when such commissioners were not appointed, meaning that their administrative costs were not reduced by substantive changes.

In other cases, ways of reducing compliance costs were identified and initiated by means of legal amendments. For example, the project

“Reduction of tax retention and inspection intervals” could save €2.5 billion annually. However, this step long called for by businesses in connection with the Federal Government’s Annual Tax Bill 2013 was thwarted by the Bundesrat (see page 11).

The following reports summarize the status of implementation and the results of each project.<sup>2</sup>

### **Planning and building law for infrastructure projects**

At the end of 2012, the Federal Government completed its investigation into compliance costs in planning and building law for infrastructure projects. The aim of the project was to identify ways of simplifying and accelerating the planning of major transport infrastructure projects. For this purpose, the compliance costs were calculated for the main planning steps which are incurred by public authorities owing to the requirements for typical infrastructure projects (especially road construction) enshrined in planning law.

The study was carried out by the Federal Statistical Office on behalf of the Federal Government. In addition, Bavaria, Brandenburg, Hamburg, Hessen, North Rhine-Westphalia and Thuringia all took part in the project.

The results indicate that procedural law cannot be further simplified without causing a detrimental effect on planning quality. Therefore, the potential for simplification identified in the report concentrates on individual organizational methods of acceleration. Their feasibility is now to be reviewed together with the *Länder*.

These findings confirm that the Federal Government has already taken important action to accelerate and simplify planning procedures by means of both legislative initiatives and numerous, continuous improvements to sub-legislative regulations in recent years

The “Manual for Good Public Participation – Planning of Major Projects in the Transport Sector” published in autumn 2012 was an important contribution to improving the planning and implementation of complex infrastructure projects involving sophisticated planning.

Furthermore, the Federal Government has already launched another reform step in the form of the Planning Standardization Act, which has now been passed. Early public participation is expected to help large-scale projects to be carried out more quickly since project proponents will be able to submit optimized planning applications drawn up with public involvement. This will enable potential conflicts to be spotted and dealt with in advance, streamlining the subsequent administrative proceedings.

### **Tax returns, obligations to provide supporting documents for tax and customs purposes**

The aim of the project was to assess the compliance costs for completing and filing a tax return. The average time necessary to complete an employee’s tax return was found to be 230 minutes, while the tax authority took about 60 minutes to process it.

These findings were partly reflected in the forms for income tax returns and the electronic tax return programs redesigned by the tax authorities:

- Details of childcare costs and the income and receipts of children who have come of age have been streamlined in the “Child annex” for the 2012 tax year.
- The language used in the instructions for income tax returns for 2012 has been revised. Passages which were difficult for members of the public to understand have been rephrased in a comprehensible, contemporary manner.
- The structure and layout of the instructions for income tax returns have been continuously revised in order to visually highlight the changes. This revision is intended to

<sup>2</sup> The final reports on the projects can be downloaded from the web page <http://www.bundesregierung.de/buerokratieabbau>.

boost readability and to give the instructions a clearer structure.

- The free ELSTERFormular software to complete tax returns electronically provided by the tax authorities can now be upgraded for the year in question.

The findings obtained in the project will be taken into account when producing future forms and developing the ELSTER software in order to continue to reduce citizens' compliance costs.

In addition, seeking ways of simplifying tax regulations is a constant responsibility.

### **Harmonization and shortening of retention and evaluation periods under commercial, tax and social legislation**

With the Federal Ministry of Finance as the lead ministry, a project was carried out to harmonize and shorten the retention and evaluation periods required under commercial, tax and social legislation. This study took place in close cooperation between the Federal Ministry of Justice (BMJ), the Federal Ministry of Labour and Social Affairs (BMAS), the Better Regulation Unit and the Federal Statistical Office. The project was also supported by the NKR.

Under the German Tax Code, tax-related documents need to be kept for at least ten years. This same rule applies in the German Commercial Code to accounting documents, which make up the lion's share of the paperwork that needs to be retained.

Reflecting its intention to reduce the administrative burden on businesses, as a result of the project, the Federal Government proposed reducing the retention period for tax documents in the Annual Tax Bill 2013. Weighing up the reduced compliance costs against the risks of a shortfall in tax revenue, the retention period was to be shortened to first eight years (from 2013) and then seven years (from 2015). The retention periods for accounting documents specified in the Commercial Code were also to be shortened

accordingly. This would significantly reduce the volume of documents stored by each company.

Reducing the retention periods would have saved businesses €1.68 billion (from 2013) and then €2.5 billion (from 2015) annually. However, tax revenue would have declined by €200 million (from 2013) and €1 billion (from 2015) every year.

When debating the Annual Tax Bill 2013 on 12 December 2012, one of the recommendations made by the Mediation Committee of the German Bundestag and the Bundesrat was to remove the rules to shorten retention periods recommended by the Federal Government and contained in the law approved by the Bundestag. However, on 17 January 2013 the Bundestag did not follow the Mediation Committee's recommendations regarding the Annual Tax Act 2013, whereupon the Bundesrat rejected the law again on 1 February 2013. A new legislative initiative to shorten the retention period has now been launched.

### **Applications for statutory benefits and services, in particular for start-up entrepreneurs and small businesses as well as companies facing imminent bankruptcy**

Together with the Federal Statistical Office, the Federal Ministry of Economics and Technology (BMW) and the BMAS ascertained the feasibility of a project to determine compliance costs in connection with applications for subsidy programmes for start-up coaching. During an initial workshop, it turned out that the expectations of this project could not be met. In particular, the application and accounting procedures had already been speeded up and simplified with effect from 1 April 2011. A project to assess the compliance costs would not produce any additional findings that would supplement the ongoing evaluation of the programme.

## **Applications for statutory benefits and services, especially for people who require permanent care, are chronically ill or suffer from an acute, serious illness**

In another project, the Federal Government examined the total compliance costs associated with the implementation of care-related federal law incurred by citizens, businesses and public authorities (*Länder*, local authorities and social security institutions). The compliance costs were determined using a standardized method which extended the standard cost model by taking disclosure obligations, additional requirements and cost factors into consideration.

The study addressed how certain social security benefits and services could be provided more quickly, simply and/or cost-effectively without reductions in quality or weakening existing precautions to prevent benefit fraud. The various process steps of long-term nursing care documentation were also included. Taking part in the project were representatives of the statutory and private health and long-term care insurance institutions as well as doctors and other healthcare institutions. The Federal Statistical Office was responsible for collecting data and documenting the findings.

The project is now complete and the Federal Government's report has been published.

The project addressed the following:

- Describing standardized application processes for the circumstances of a typical person and the processes of long-term care documentation;
- Developing a standardized, coordinated stock of data as the basis for calculating compliance costs; and
- Identifying ways of simplification.

To determine the compliance costs for "Applications for statutory benefits and services, especially for people who require permanent care, are chronically ill or suffer from an acute, serious illness", a person with typical circum-

stances was chosen by the participants in order to examine the procedures involved from application to the notification of the decision. Only people who were no longer of working age (65+) and who were applying for the degree of care required to be established for the first time were considered. The number of cases used to calculate the annual compliance costs was based solely on the number of applications meeting the above criteria; all case numbers were based on 2009. This limited the range of possible application procedures and the relevant cost units, and enabled a detailed analysis of the individual process steps. This also allowed about 84% of all those in need of long-term nursing care to be addressed.

Regarding the application process, all the stakeholders ranging from applicants to those processing applications and benefits inspectors were interviewed about the time and costs required for the individual steps. As far as long-term care documentation was concerned, the times and costs required to assess a first-time care applicant and for the subsequent documentation of the care process were gauged.

The main results of the project are as follows:

- The ten application procedures considered and the procedure for the appointment of a legal carer on request create annual compliance costs of about €450 million, about 60% of which is borne by public authorities and just under 40% by businesses.
- Taken together, the processes for the (initial) determination of the level of care and applications for exemption from statutory top-up payments cause more than half the total compliance costs. The lion's share is incurred by the public authorities through the processing of applications. According to the study, the biggest burden on businesses is applications for remedial treatments, which generally cause the public authorities hardly any compliance costs. This shows that not only do the costs of procedures differ, but that public authorities and businesses are also impacted to varying degrees. In this case, businesses include not

just private healthcare and long-term care insurance institutions but also doctors' surgeries, nursing homes, MEDICPROOF and social services in hospitals. The distribution of costs between businesses and public authorities is also determined by citizens' insurance status. In this case, public authorities include statutory insurance funds, the Medical Review Board of the Statutory Health Insurance Funds and welfare agencies, while businesses include private insurance institutions.

- The compliance costs for the citizens concerned range from 3 to 435 minutes, depending on the procedure involved. The most time-consuming process is applying for long-term care under the Twelfth Book of the Social Code (SGB XII), for which there is a relatively low number of cases (about 64,000) compared to other applications examined. The process is so lengthy because not only applicants but also their families are involved. In fact the application procedure for determining the level of care – consisting in each case of the application itself, processing, appraisal and sometimes objection proceedings – was described by respondents as very time-consuming. By far the highest number of cases concerned applications for remedial treatments, the amount of time required by applicants being relatively small at 20 minutes.

In the survey, all the target groups were asked to suggest areas in need of simplification and improvement. The main responses were:

- The structure and design of application forms;
- The channels of application procedures, information and official replies;
- Transparency, the provision of information and advice;

with nearly all respondents seeing potential for simplification in these key areas.

In addition to the application procedures considered, the study also addressed care documentation. The compliance costs of businesses for all care documentation steps was calculated to total around €2.7 billion annually – a sum which primarily results from the number of individual records and work steps. The biggest share of compliance costs (€1.9 billion per year) is accounted for by filling in records documenting the treatment carried out. Although completing a single treatment record doesn't take long, given the various records that need to be completed daily for different patients, this amounts on average to nine minutes per care recipient every day. Every year, 408 million individual records are produced. And notices and supplements to care reports are produced just as often, creating compliance costs of about €290 million and €364 million respectively, equating to a quarter of the total compliance costs.

The Federal Government is actively pursuing the goal of appreciably and sustainably reducing the administrative burden for citizens, businesses and public authorities resulting from the fulfilment of legal requirements.

Many of the simplification and improvement suggestions that can be regulated by legislation have already been implemented in the Long-Term Care Reorganization Act (PNG) announced on 29 October 2012. Examples include clarification of the necessity of health aids to be prescribed by contract doctors, simplification by means of joint framework recommendations for financial accounting in home care, and rules to simplify quality audits in care facilities. As the roll-out of the PNG continues, the Federal Ministry of Health (BMG) will endeavour to ensure that no avoidable administrative burdens arise for citizens, businesses or public authorities.

The combined findings and proposals in the report show that successful bureaucracy reduction requires interaction between the various state and private decision-makers. The Federal Government will do its part and expects the other project participants to fully tap the scope for action identified in the project. The ombudsman appointed by the Federal Ministry of Health will support the implementation of measures to

reduce bureaucracy in healthcare and long-term care, especially regarding care documentation.

### **Applications for statutory benefits and services, especially for families and single parents**

To implement the project “Applications for statutory benefits and services for families and single parents”, the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) is carrying out a study into maternity protection regulations with the involvement of Baden-Wuerttemberg, North Rhine-Westphalia, Hamburg and Saarland.

Particular attention is being paid to the notification of pregnancies by employers to the relevant regulatory authority, the application process stemming from the legislation on employment and termination prohibition, and procedural practice in the implementation of the Maternity Protection Act. The aims are to identify bureaucratic barriers and to generate ideas for simplifications and improvements.

In November 2012, the Federal Statistical Office conducted a thematic appraisal among practitioners from businesses and public authorities.

At the request of the representatives of the participating *Länder*, another supplementary survey will be carried out among companies and regulatory authorities by the Federal Statistical Office regarding the simplification proposal “Notification of pregnancy through a central online platform”.

Furthermore, on 28 February 2013 the German Bundestag passed the Advance Maintenance Payments Bureaucracy Reduction Act, which will come into force in July 2013. The payment of maintenance as defined by the Advance Maintenance Payments Act (UVG) provides temporary support to single parents because they usually have to bring up their children under difficult circumstances and if maintenance were no longer to be received from the other parent they would otherwise have to make up for this shortfall themselves. With the Advance Maintenance

Payments Bureaucracy Reduction Act, the bureaucracy involved in maintenance payments under the UVG is reduced since recourse is made more effective by expanding the right to information and also less costly by extending the certification authority of the youth welfare office.

### **Simplifying the electronic submission of business registration notices**

The spread of electronic business registration notices was held up by both the previous view of the Federal Government *Länder* Commercial Law Committee and administrative practice, according to which business registration notices had to be made out in writing and a qualified electronic signature was required for electronic submission.

Article 1, Section 13 of the E-Government Bill now clearly states that business registration notices as defined by Section 14 of the Trade Regulation (GewO) do not need to be in writing and that therefore no qualified electronic signature is necessary for electronic submission.

Using the seamless electronic transmission of business registrations could save the business sector up to €18 million every year – but only if local authorities’ business institutions offer this service, e.g. by means of online forms with direct screen input. The necessary proof of identity could be produced by other suitable methods, such as the eID function of the new ID cards or the use of De-Mail.

The regulations governing the organization of the business registration notification procedure under Section 14 GewO are to be worked out in 2013. They are to include the updating of standard forms for the registration, changes to registration and the deregistration of businesses.

## A.3 Other projects

### Online vehicle registration

Under the direction of the Hamburg Tax Authority, the Federal Government and the *Länder* carried out a project entitled “Motor Vehicle Registration Offices” in which they explored how to enable the electronic registration of motor vehicles. During the IT Planning Council steering project, the Hamburg Tax Authority developed a system with the necessary legal changes (including licence plate stickers and registration certificate Part I with a security code for web-based temporary vehicle deregistration and re-registration for the same owner). When the Hamburg Tax Authority completed its work on the project on 31 December 2012, the Federal Ministry of Transport, Building and Urban Development (BMVBS) was asked to take over and continue it. The management of the project passed to the BMVBS at computer expo CeBIT 2013.

The BMVBS will continue the project and in the first stage plans to implement the proposals for online deregistration in this legislative period. According to current planning, the draft Vehicle Registration Regulations will lay the foundation for online deregistration. This will in particular reduce the burden on owners of commercial vehicles.

The second phase will include online re-registration for the same holder and is to be implemented during the next legislative period once outstanding issues have been resolved (e.g. the prompt transmission of the date of the next vehicle inspection by the inspectorates to the Central Vehicle Register in the Federal Motor Transport Authority). Parallel to these stages, a strategy for online procedures is to be developed for vehicle registration and change of ownership. For this purpose, a working group made up of representatives of the Federal Government, *Länder* and motoring organizations (including for instance the VDA German Association of the Automotive Industry, the VDIK Association of International Motor Vehicle Manufacturers, the GDV German Insurance Association and vehicle inspectorates) was set up.

### Optimizing the entry procedure for non-EU skilled workers and executives

Together with the NKR, the *Länder* of Hessen and Saxony – supported by the Federal Statistical Office – set themselves the task of identifying ways of cutting red tape for entry procedures for non-EU skilled workers and executives. The aims of this project were to identify barriers and regulatory differences affecting the issue of work visas (D visa) and to develop measures to simplify and accelerate the process.

A large number of agencies performing different tasks are involved in processing work visas for Germany. The entire issuing process takes an average of six weeks from application (gross), the (net) processing time itself taking just 2½–4½ hours. The difference is due to the time necessary to send documents from one agency to the next and waiting times.

During the project, thirty-five recommendations to simplify and speed up the process were developed.

Immediately after the presentation of the project results, a working group consisting of representatives of the Federal Government and the *Länder* analysed and assessed the suggestions contained in the final report and above all voiced the far-reaching proposal of doing away with the regular involvement of aliens authorities in visa procedures.

This proposal was implemented in the Eight Ordinance Amending the Residence Regulations adopted by the Federal Cabinet on 19 December 2012. In cases in which foreigners who have previously not spent a substantial period in Germany apply for a work visa, the approval of the aliens authorities is no longer required. This amendment to the Residence Regulations came into force on 5 March 2013. Other simplification proposals targeting the participation process are hence no longer necessary.

Apart from the proposals stemming from the project, additional simplifications have been introduced. For example, academics with foreign university degrees can now be issued with an EU

Blue Card residence permit without the approval of the Federal Employment Agency (BA) if they earn an annual salary of at least two thirds of the annual earnings ceiling of the statutory pension scheme (2013: €46,400). Whenever approval is still required, it shall be deemed to have been granted if the BA does not decide within two weeks. Furthermore, the BA has undertaken to review and decide applications within forty-eight hours.

To expedite the process, if the employer so requests, the BA can decide whether to grant approval even before a residence permit has been applied for once the necessary paperwork has been filed by the employer. The BA offers a web-based (and hence paperless) procedure for this. This cuts out the time taken to send the documents by post and means applications can be decided more quickly.

Local authorities have also taken a number of measures to improve administrative procedures. For example, a workshop held by the Working Group for Economic Administration (AWV) in conjunction with the Rhein-Neckar metropolitan region showcased concrete examples of how suggestions contained in the project report have been implemented locally.

It is planned for the medium term to assess exactly how the measures taken have simplified and expedited the arrival of foreign skilled workers and executives from non-EU countries.

#### **Opening of a new service agency: Engagement Global gGmbH**

In 2012, the Federal Ministry for Economic Cooperation and Development (BMZ) opened

a new service agency for its global activities. It is a central port of call serving the diverse civil society and local authority actors who want to take part in development work. Known as Engagement Global gGmbH, it provides information and advice as well as training and financial support. By means of direct communication channels and clear remits, its aim is to streamline the existing advisory and application processes and to reduce administrative barriers. Applications for grants and their award are to be harmonized via Engagement Global gGmbH to simplify proceedings for financial backers. The resulting reduction of administrative burdens is intended to help increase civic involvement in development cooperation.

No new legislation is required in connection with the establishment of Engagement Global gGmbH. Although the new agency's contribution to reducing the burden on citizens cannot be measured in monetary terms, it is assumed that the simpler, harmonized procedures enabled by Engagement Global gGmbH bring about qualitative benefits for the work of civil society. Its first year was a success.

The new initial advisory centre has caught on, averaging over 500 initial consultations per month. The reception centre for initial inquiries set up in 2012 is being systematically continued so that reliable trend forecasts will be possible in one or two years. By merging different funding programmes under one roof, initial procedural harmonization has been launched, e.g. the standardization of administrative cost rates and mission fees paid to consultants, which previously were subject to different administrative requirements and funding arrangements in all support programmes.



## B. Development of compliance costs

### B.1 General

In accordance with Section 7(3) of the Act on the Establishment of the National Regulatory Control Council (NKRK), the Federal Government reports to the Bundestag annually on the development of compliance costs in the various ministries. Its findings are based on the ministries' cost estimates using the methodology contained in the "Guidelines on the Identification and Presentation of Compliance Costs in Legislative Proposals by the Federal Government". These guidelines summarize the estimation method adopted in July 2011 following broad consultation with ministries, government departments, the National Regulatory Control Council, the Federal Statistical Office, the *Länder*, local authorities, professional associations and a number of academics. This method has been binding for all legislative proposals by the Federal Government since 1 September 2011. Scientific accuracy is not required for the estimates. Instead, they seek to provide decision-makers and others interested at reasonable outlay with a realistic picture of the expected costs and benefits.

The estimates of compliance costs must be clearly set out in the explanatory memoranda. The NKR examines for example whether the estimates have been carried out properly. Following Cabinet approval, the Federal Statistical Office places the data in a publicly accessible database (<http://www.destatis.de/webskm>). This contributes to a high level of transparency and clarity of regulations. The compliance costs for each proposed regulation are broken down into citizens, businesses and public authorities. The administrative costs of disclosure obligations are also part of the compliance costs and are assessed separately for businesses, helping to keep track of the objective of reducing their administrative costs.

Contacting authorities is often time-consuming for citizens. Since this process is also assessed, the compliance costs include not just monetary values but the time required. For all target groups, a distinction is always drawn between one-off compliance costs (e.g. caused by change) and annually recurring compliance costs. As a result, a total of nine cost categories are used to report compliance costs.

Regular compliance costs (annual)		
... for citizens	... for businesses	... for public authorities
• Time required (hours)	• Cost (€)	
• Cost (€)	Disclosure obligations	
	• Cost (€)	• Cost (€)



One-off compliance costs (conversion costs)		
... for citizens	... for businesses	... for public authorities
• Time required (hours)	• Cost (€)	• Cost (€)
• Aufwand in Euro		

This report covers all the draft legislation of the Federal Government which was approved in 2012 by the Cabinet, or in the case of ministerial regulations, for which interministerial coordination was completed in 2012.

The development of compliance costs in the various ministries as well as for the Federal Government as a whole is shown broken down by individual parameters in the tables in Annexes 1–3. Information on the development of compliance costs in the individual ministries and departments is contained in section B.4.

## B.2 Experience of the methodology used to estimate compliance costs

The 2012 period under review is the first year for which a stock of data recording compliance costs in the legislative process is available which enables reliable analyses of their development. Based on the available data, the Federal Statistical Office therefore produced analyses, which are summarized below. An evaluation of the process used to estimate compliance costs is planned to be carried out in 2014. Until then, initial checks of the compliance costs will be carried out to show how valid the ex ante estimation method is.

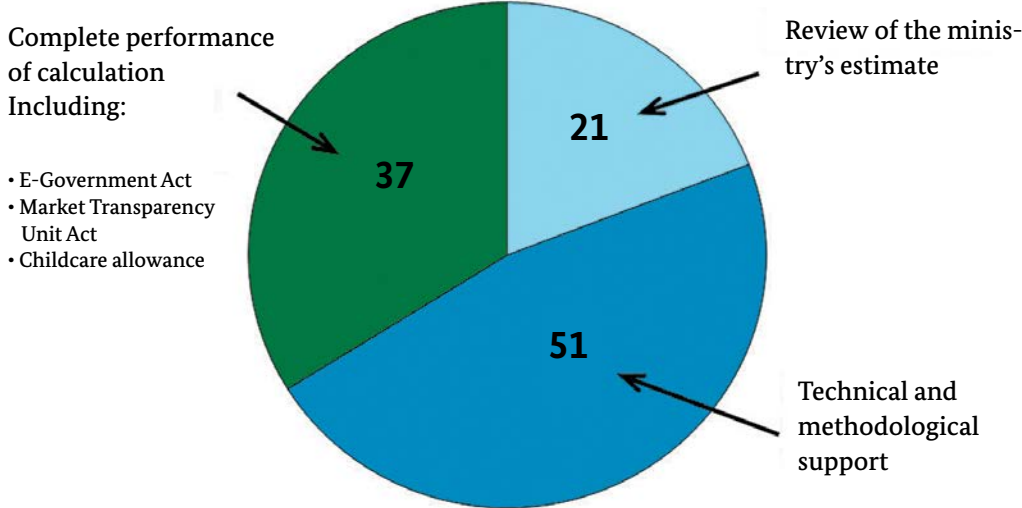
### Federal Statistical Office involved in many ex ante estimates

Although the ministries are responsible for estimating compliance costs, they can seek the support of the Federal Statistical Office. Pursuant to Section 8, clause 1 NKRK, the Federal Statistical Office supports the Federal Government, the Bundestag and the Bundesrat when necessary by evaluating existing data and carrying out cost estimates.

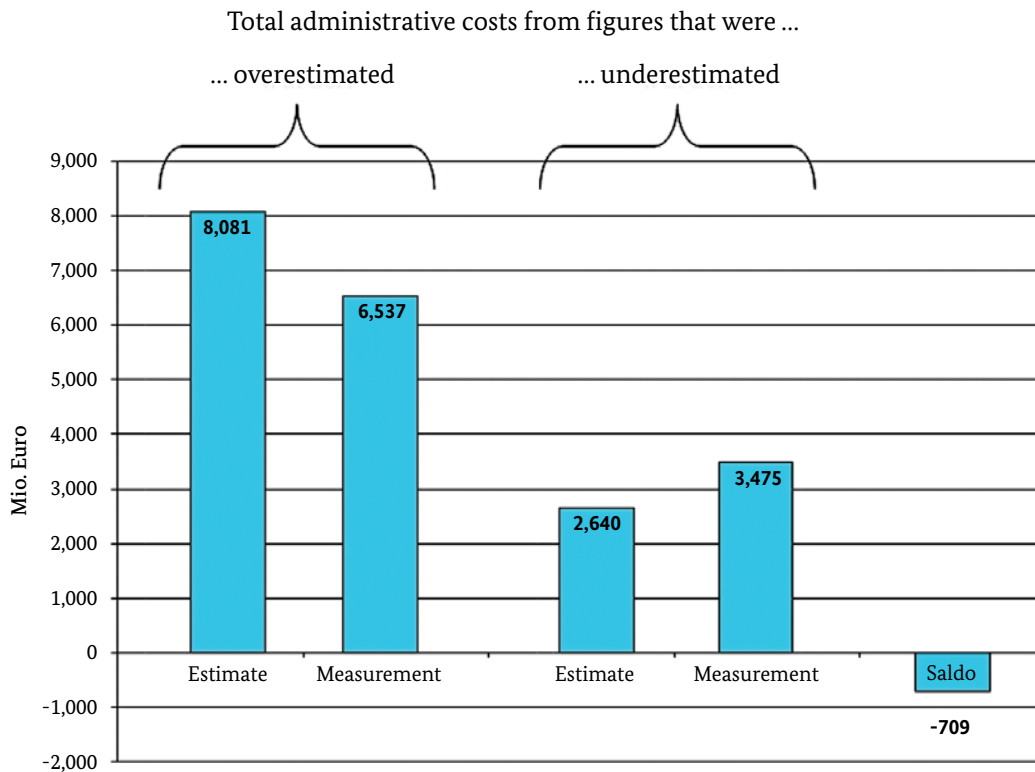
Since the introduction of the mandatory estimation of compliance costs using the ex ante method with effect from 1 September 2011, the Federal Statistical Office has been involved in over 100 estimations – roughly one in three projects resulting in compliance costs. The degree of involvement requested by the ministries has ranged from a mere review of the ex ante estimates carried out by ministries to completely carrying out estimates by itself (which applied to about a third of the cases in which it was involved).

The Federal Statistical Office was involved in several ex ante estimates of important legislative proposals in 2012. They included the E-Government Act (Federal Ministry of the Interior (BMI)), the Market Transparency Unit Act (BMWFi) and the amendment to the Federal Parental Benefit and Parental Leave Act (BMFSFJ). In some cases – such as regarding the Market Transparency

Involvement of the Federal Statistical Office in the performance of cost estimates



### Comparison between estimates and reassessments of administrative costs from



Unit Act – the compliance costs of regulatory alternatives were also estimated. The ex ante method therefore helps to minimize compliance costs.

#### Review of administrative costs finds they're often overestimated

Since 1 December 2006, the ministries have worked out during impact assessment how their legislative proposals will affect administrative costs (i.e. the costs caused by disclosure obligations). These estimates are stored in the Federal Statistical Office's database and hence made publicly available. Ex ante estimates are currently available for some 3,000 disclosure obligations.

After a two-year period, the Federal Statistical Office usually validates the estimates based on reassessment. Attention is also drawn to the changes in parliamentary consultations. The aim is to verify the extent to which the effects estimated beforehand have been confirmed in reality and whether there are any indications

of possible cost savings or efficiency improvements. Such reassessments are currently available for almost 700 disclosure obligations.

The results of the reassessments reveal that on the whole, the administrative costs are less than those estimated in the impact assessments. They are currently €709 million (nearly 7%) below the ex ante estimate (see graph).

This shows that there is no tendency among the ministries to systematically underestimate administrative costs and to overestimate bureaucracy reduction. The ministries' estimates tend to be conservative, i.e. they set the administrative costs too high. Although there are frequently measurements showing that the actual administrative costs are higher than estimated, other measurements indicate just the opposite.

Furthermore, the higher the administrative costs as a whole, the lower the percentage difference between the estimate and the final measurement. Estimates of disclosure obligations with high administrative costs therefore appear to

have been conducted more accurately owing to their relevance than in the case of lower costs.

The findings from reassessments are taken into account in the ex ante estimates of administrative costs. Therefore, reassessment is an important tool to increase both the quality of the data of the documented administrative costs and the quality of the estimates. This increase in data quality ultimately benefits the ministry concerned in other ex ante estimates.

### B.3 Interministerial analyses of the development of compliance costs

For the 2012 reporting period, the Federal Statistical Office has collected 297 legislative proposals approved by the Federal Government in its database. A total of 156 of the legislative proposals will have no effect on compliance costs; 141 legislative proposals will change compliance costs in a total of 1,342 individual regulations (88 for citizens, 528 for public authorities, and 726 for businesses). For two thirds of these legislative proposals, comprehensive quantified information is available on their impact on compliance costs.

In the remaining third, the compliance costs could not be determined or detailed quanti-

cation was dispensed with owing to the likely effects. The reasons for this are documented in the draft legislation.

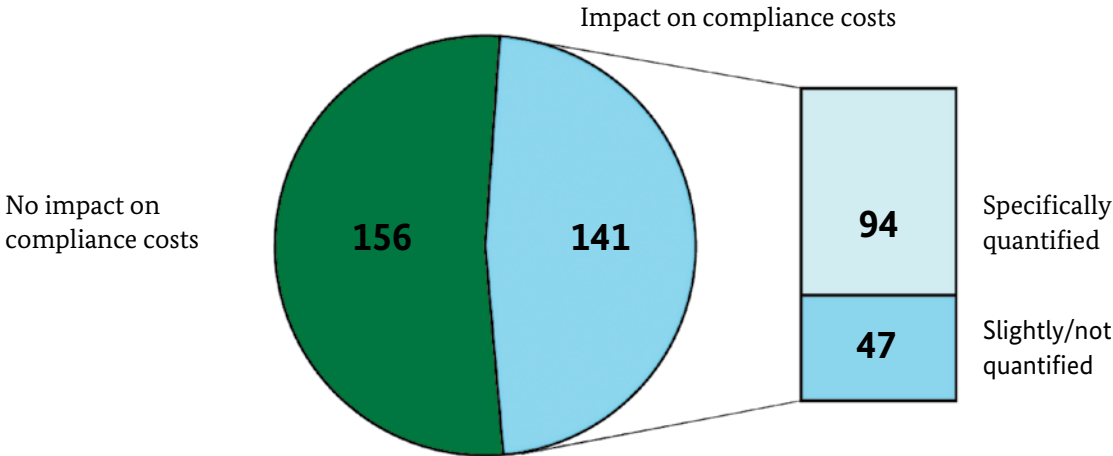
Often the reason is that the change to compliance costs was assessed as low by the ministry after an initial rough estimate and determining the actual amount would have involved a disproportionately high effort.

More than half of these cases relate to regulations in which public authorities are the target group.

Administrative enforcement by *Länder* or local authorities is frequently difficult to assess beforehand because of the different regional conditions and *Land*-specific regulations. It can only be assessed in cooperation if the *Länder* and local authorities are involved. The aim should be to quantify compliance costs whenever this is possible and makes sense. To reduce the uncertainty when estimating the enforcement effort in the public authorities, above all the *Länder* need to be more closely involved. Moreover, the expertise of professional associations and national organizations needs to be obtained in order to determine the compliance costs.

By contrast, the costs of regulations for businesses can frequently be quantified far more successfully. This is aided by experience in measuring administrative costs for businesses using

Number of legislative proposals adopted in 2012 affecting compliance costs



the instruments available, such as fair value tables and the database of the Federal Statistical Office. Therefore, over the next few years, tools are to be developed for citizens and public authorities that support the ministries and the Federal Statistical Office in ex ante estimation.

### **Businesses directly affected the most by changing regulations**

Regulations refer to rules which are intended to alter the behaviour of citizens, businesses or public authorities. Frequently a legislative proposal affects more than one target group (usually both businesses and public authorities).

Thirty-five per cent of the regulations revised in 2012 are disclosure obligations for businesses and hence concern administrative costs. Almost 19% are other requirements for business. They include substantive regulations, e.g. regulations required in order to comply with certain standards. In total, therefore, more than half of all requirements (54%) concern businesses. In 7% of cases, citizens are affected, while 39% are regulations affecting public authorities.

On balance, the net decrease in compliance costs for businesses in 2012 was approximately €102 million. This balance results from an increase in compliance costs of approximately €999 million and a decrease of €1,101 million (see the figures in Annex 1).

The evaluation shows that disclosure obligations and thus administrative costs for businesses remain very important. Firstly, in numerical terms they account for the largest share of regulations. Secondly, it can be seen from the financial tables in Annex 1 that the administrative costs in 2012 are very important for the reduction of businesses' compliance costs. Some 65% of the reductions in this period were attributable to the decrease in administrative costs. This takes into account the measures in the position paper dated 14 December 2011.

By contrast, the burden on businesses mainly (about 80%) results from new substantive regulations and not administrative costs.

Regulation type	Number	Proportion by regulation type	Proportion by target group
Disclosure obligations for businesses	476	35.5 %	54.1 %
Regulations for businesses	250	18.6 %	
Regulations for citizens	88	6.6 %	6.6 %
Regulations for public authorities	528	39.3 %	39.3 %
Total	1,342	100.0 %	100.0 %

The year 2012 therefore shows that the administrative costs stemming from disclosure obligations remain very significant, including after the expansion of the ex ante procedure.

However, due to the short duration of the evaluation period, no definitive findings are possible about whether this development can be expected to continue in the following years in the same way.

### **Conversion costs to be amortized by savings within a few years**

In some cases, long-term savings can only be achieved if changes are made to operational and other procedures, initially causing conversion costs. An example is the Fourth Ordinance Amending the Pharmacy Rules (Federal Ministry of Health (BMG)), where annual savings of €1 million will more than make up for the one-off costs of €5.2 million. This and other examples from 2012 show that the resulting conversion costs usually pay for themselves within a few years.

Consideration of the E-Government Act also shows that, particularly through the introduction and wide-ranging reorganization of IT procedures, short and medium term investment decisions achieve long-term reduction effects.

## B.4 Developments at individual ministries

### Federal Foreign Office

During the period under review, the Federal Cabinet adopted twelve legislative proposals by the Federal Foreign Office. The only one to have an impact on compliance costs was a bill on the **Framework Agreement between the European Union and its Member States, of the one part, and the Republic of Korea, of the other part, concluded on 10 May 2010.**

The compliance costs of this treaty law, which paved the way for the necessary ratification of the framework agreement in accordance with Article 59(2), clause 1 of the Basic Law, solely affect the public authorities. The compliance costs cannot be precisely quantified. The regular meetings of the common institutions (particularly the Joint Committee and the Joint Consultative Committee) are subject to administrative costs (personnel, travel and subsistence expenses, postal and telecommunications charges, the costs of interpreting at meetings, and the translation and duplication of documents). However, these costs are largely paid by the EU or the Republic of Korea. Member States are only obliged to cooperate during their EU Presidency. It is impossible to estimate these expenses at the beginning of the term of the new framework agreement. Germany will not shoulder the EU Presidency again this decade. No other costs (e.g. for *Länder* and local government or businesses and the social security systems) will be incurred.

### Federal Ministry of the Interior

In 2012, the Federal Government adopted twenty-two laws and regulations which were within the purview of the BMI. They included four draft regulations that have led to substantial changes to compliance costs.

**The Encouragement of E-Government and Amendment of other Provisions Bill** (hereinafter referred to as the “E-Government Act”) simplifies electronic communication by citizens and

businesses with public authorities by removing obstacles contained in federal law.

The Federal Government, *Länder* and local authorities are to be enabled to offer simpler, more user-friendly e-government services that are geared to the circumstances of citizens and the needs of private companies. The law regulates the approval of other technical methods which are sufficiently secure for replacing communication in writing alongside the qualified electronic signature. It also contains overarching standards designed to encourage the growth of e-government solutions in Federal Government, *Länder* and local authorities.

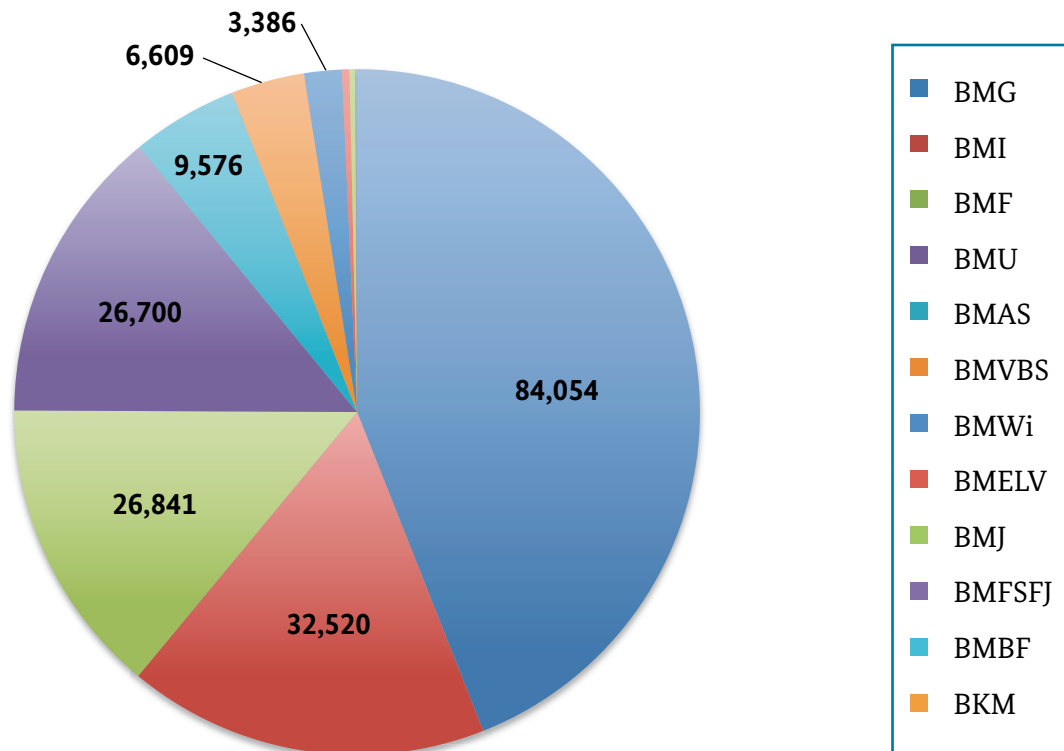
Citizens will save time (approximately 10.9 million hours) and costs (all in all approximately €35.7 million) when contacting public authorities through the provision of e-government tools replacing written communication in connection with gathering information, communication and applications, especially by using De-Mail or web applications in conjunction with the eID function of the new ID cards.

Businesses will benefit from provisions about the replacement of written communication and the expected reduction in administrative costs as a result. Apart from the disclosure obligations of the BMI, this also concerns other ministries (see chart). With the use of other e-government services, all in all €206 million could be saved in connection with current disclosure obligations.

Although investments will initially be required by public authorities, they can be staggered over time depending on the law’s implementation and the existing infrastructure of each authority. The one-off conversion costs of approximately €687 million will be more than made up for by the potential savings of up to €1 billion every year.

The 1957 **Population Statistics Act** (BevStatG) requires a complete overhaul. The bill modifies the wording to bring it into line with divorce and child legislation, which was amended years ago, as well as the **Act on Court Procedure in Family Matters and in Matters of Voluntary Jurisdiction** (FamFG), which came into force in

Reduction potential of the E-Government Act  
in €'000 per ministry



2009, especially the recording of civil partnerships, and sets out data collection and support parameters.

Due to the limitation of statistics to data held by public authorities and the decision not to obtain additional information from third parties and others concerned, the disclosure obligation contained in Section 2(3) no longer applies, saving businesses administrative costs of around €1 million annually.

The changes to the law will necessitate adjustments to data processing in the statistical departments of the Federal Government and the *Länder*, causing their compliance costs to rise slightly. The conversion costs incurred by the Federal Government and the *Länder* are expected to total about €235,000. The annual costs for the public authorities of the Federal Government and the *Länder* are expected to increase by around €200,000. This amount corresponds to the difference between the costs of collecting new information parameters and the elimination of existing information.

The **Microcensus Act Amendment Act 2005 (MZG)** extends the Microcensus Act by four years. The previous law was in force until 31 December 2012. Had it not been amended, data on the population structure, economic and social circumstances of the population, families and households, employment, job seekers, training and housing conditions would no longer have been available to parliaments, governments and public authorities at the federal and *Länder* level.

Every year, 800,000 citizens are interviewed for the microcensus. The time required by respondents is 30 minutes. Furthermore, 200,000 citizens are asked additional questions taking up another 15 minutes. Businesses remain unaffected by this law.

The annual costs incurred by the public authorities of the Federal Government and the *Länder* are about €23.7 million.

Costs were incurred at the same level until the previous act expired. Extending it by another

four years will not cause additional compliance costs. Instead, the existing compliance costs will simply be maintained.

**The Civil Status Legislation Amendment Bill (PStRÄndG)** implements the findings of the evaluation of the Civil Status Act and mainly contains classificatory and editorial changes to existing regulations as well as adjustments to the certification procedures based on practical experience. No additional compliance costs will be incurred by citizens or the business sector. The annual compliance costs of local authorities will be reduced by around €10 million. These savings are chiefly due to the reduction of register entries and the abolition of the entry of references in paper-based secondary books.

## Federal Ministry of Justice

In 2012, the Federal Government passed thirty-one bills for which the BMJ was mainly responsible into law. In addition, two draft wordings prepared by the Ministry of Justice were adopted, which as a result were tabled in the German Bundestag as parliamentary party drafts by the ruling coalition. Despite this large number of personal circumstances regulated, on balance the overall annual compliance costs of both businesses and citizens were reduced. In addition, in early 2013 the Federal Ministry of Justice initiated two other projects helping to cut red tape.

The compliance costs for businesses will be reduced by the bills from the BMJ's purview adopted in 2012 by about €49 million annually. This results from a total of eight legislative procedures. Of these bills, three will have a significant impact on compliance costs, being increased by one and reduced by the other two.

**The Insurance Regulations Amendment Act** provides for the creation of a statutory duty of disclosure for private health insurance institutions. In cases where costs exceeding €2,000 may arise, policyholders should be able to find out before treatment starts whether their insurance company will pay for it. This

right to information serves policyholders and is thus an important contribution to consumer protection. In the event of substantial medical treatment that could prove very expensive if the insurance company does not pay, policyholders have a significant interest in whether the likely costs will be covered by the insurance contract concluded. This gives consumers confidence regarding costly treatment. The ex ante estimation of compliance costs for this indicates annual costs of about €20 million – about €13.5 million for the insurance industry and €6.5 million for doctors.

**The Accounting Law for Micro-Enterprises Amendment Act (MicroBilG)** implements the options created by EU to reduce the accounting obligations of micro-enterprises. It largely taps the relief granted by the EU. The amount of data that micro-enterprises have to include in their annual accounts is significantly reduced. Accounting and disclosure obligations are substantially reduced. In addition, the annual accounts no longer have to be published in the Federal Gazette. Instead, they merely have to be filed and must only be produced in response to a third-party request. This will save businesses administrative costs of at least €36 million annually. One-off conversion costs of approximately €9 million are to be expected in order to instruct businesses about the new legal situation.

**The Promotion of Electronic Communication with the Courts Bill** is intended to significantly reduce obstacles to electronic communication with the judiciary. The potential of recent technological developments is to be harnessed in connection with the courts. This will modernize the judiciary and allow it to benefit from the increasing use of information technology in other walks of life. In line with the principle of sustainability, a technology-neutral regulation is to be created for communication with the courts. This will enable the judiciary to respond quickly to future technical developments. The increased use of electronic communication will enable lawyers in particular to save approximately €35 million annually.



In another six legislative proposals, it has not been possible to quantify the expected annual impact on compliance costs using the ex ante method without going to disproportionate lengths. Even so, these proposals are expected to result in reduced administrative costs. Ex ante estimation found that the remaining nineteen proposals would have no impact on businesses' annual compliance costs.

The attempt to reduce the duration for which tax-relevant documents need to be retained under commercial and fiscal law in the **Annual Tax Bill 2013** was intended to considerably reduce the burden on businesses (for more details see section A. 2, pp 11ff).

Thanks to two pieces of draft legislation from the purview of the BMJ adopted in 2012, a total of approximately 42,000 hours per year has been saved for citizens. This reduction is mainly due to the **Residual Debt Discharge Proceedings Reduction and Strengthening of Creditors' Rights Bill**. In this draft legislation, plaintiffs are no longer obliged to submit a debt settlement plan in consumer bankruptcy proceedings, saving them about twenty minutes in each case. Given the expected 109,800 cases of personal bankruptcy, this corresponds to an annual saving of 36,600 hours.

In another five projects, the impact on the amount of time required could not be determined with reasonable effort. Twenty-six projects will have no effect on the amount of time required by citizens.

Material expenses for citizens were quantified in three proposals. One proposal reducing the administrative costs for citizens and two creating a burden for them will create a small additional burden for citizens of approximately €1.1 million. The largest individual item in this respect is the postage costs incurred when citizens exercise the aforementioned right to obtain information from private health insurance institutions introduced by the Insurance Regulations Amendment Act (€600,000) and choose to do so by post. If they choose electronic channels (e.g. email), the costs will be much lower. Twenty-seven projects will have

no effect on the material expenses of citizens. In three projects, the impact on their material costs could not be determined with reasonable effort by using the ex ante method.

The compliance costs for public authorities will increase slightly by about €1.9 million each year through the draft legislation in the remit of the BMJ adopted in 2012. This results from a total of five legislative procedures for which the compliance costs were quantified in the ex ante method and which were found to lead to additional compliance costs.

Much of this is accounted for by the **Introduction of a Database Land Register Bill**, which is expected to create a burden of €940,000 on the budgets of the *Länder*. Under this proposal, the land registries will be required to keep records every time the land register is inspected and to provide property-owners with information from these records on demand. This will reflect data protection requirements and take into account the interests of property-owners. The conversion to structured data management enabled by the bill will lead to the much more efficient integration of the land register into electronic legal transactions and expand the scope for research and information. In addition, technical and functional enhancements will enable improvements in the online services in connection with the land registry.

In another seventeen proposals, the impact on the annual compliance costs for public authorities could not be precisely quantified in the ex ante method, although twelve of these projects are expected to result in only minor changes to compliance costs. Eleven projects in the purview of the BMJ will have no impact whatsoever on the annual compliance costs of public authorities.

The **Second Cost Law Modernization Act** (2nd KostRMoG) is the only BMJ proposal which will have a sizeable influence on the conversion costs of public authorities. The act is intended to replace the previous cost regulations with a modern court and notary fees law and to turn the Judicial Administration Costs Code into a modern judicial administration costs

act. The new legislation provides for structural changes that will make cost regulations more transparent, simpler and easier to understand. Furthermore, the level of fees will be adjusted. One-off conversion costs of approximately €20.4 million will be incurred by the courts and notaries owing to the necessary adjustments to their billing software and related staff training.

Another two proposals launched by the BMJ in early 2013 will lead to a significant reduction of compliance costs.

**Draft legislation to amend the Federal Central Register Act** and other register legislation in order to permit electronic application for the provision of registration information will enable applications for certificates of good conduct from the Central Register or information from the Central Trade Register to be directly submitted electronically to the registration authority. Previously, applications could only be submitted by appearing at the authority concerned in person. In addition to contributing to the modernization of public authorities, this will also lead to significant reductions. Assuming 480,000 cases per year, the time required by citizens will be reduced by sixteen minutes per case, equating to approximately 128,000 hours annually. Meanwhile, simplifying and speeding up the application process for obtaining information from the Central Trade Register will reduce businesses' annual compliance costs by approximately €240,000. In public authorities, the new application process at the federal level will initially lead to unquantifiable conversion costs. However, the additional expenses every year incurred by the register authority will in the medium term be compensated for by the fees received. The finances of local authorities are unlikely to be affected at all.

The **draft legislation establishing cooperative societies and further reducing bureaucracy at cooperatives** is expected to lead to the introduction of "limited liability cooperative societies" in the cooperative sector. The cooperative is a very suitable instrument for small companies in the area of civic activities. However, cooperatives are regarded as being too complex and too expensive compared to

other legal forms of micro-enterprises. Very small cooperatives should as a result be able to be founded in future as cooperative societies. As such, they will be exempt from mandatory membership of a cooperative auditing association and compulsory audits. The bill also provides for further simplifications for all cooperatives. In particular, electronic information is to be encouraged and various practical needs are to be met. For existing cooperatives, this will save businesses around €14.5 million annually. In addition, the compliance costs of cooperative societies will be reduced by an amount which cannot yet be quantified due to exemption from mandatory membership and compulsory auditing.

### Federal Ministry of Finance

The tax relief ("tax capping") introduced under the ecological tax reform designed to ensure that energy-intensive manufacturing companies remain internationally competitive was only approved by the European Commission under its state subsidy rules until 31 December 2012. Therefore, follow-up regulations were created by the **Energy Tax and Electricity Tax Act Amendment and the Aviation Tax Act Amendment Act**.

In line with the requirements of the Federal Government's Energy Strategy dated 28 September 2010, tax capping will only be applied from 2013 if companies contribute to saving energy. The necessary introduction of energy management and environmental management systems will create annual costs of between €150 million and €250 million in the implementation phase until 2015 and thereafter around €100 million annually. Alternative systems to improve energy efficiency with lower compliance costs will be recognized for small and medium-sized enterprises (SMEs).

The new rules replacing tax capping will demand joint efforts to improve efficiency on the part of businesses which without the incentive of tax capping would not be achieved (due to various economic barriers) and which go far beyond a 'business-as-usual' development.

This will save additional energy resources and preserve natural bases of life for future generations. The companies concerned will receive financial benefits from tax relief and their reduced energy consumption. This will also prevent the relocation of production processes to other countries with less stringent climate protection rules.

On 14 December 2012, the Bundesrat adopted the **Income Tax Amendment Guidelines 2012** (EStÄR 2012), which include changes to the economic valuation of manufactured goods. Appropriate shares of the costs of public authorities – expenditure on welfare facilities, voluntary benefits and occupational pensions – are in future to be capitalized as manufacturing costs (e.g. in the valuation of inventories). Following dispensations for several years by the Federal Finance Court, the choice applying to capitalization under commercial law for tax purposes is now to be abolished.

Judging by assessments by the Federal Statistical Office, the amended valuation of manufacturing costs will cause ongoing compliance costs of €1.5 billion euro annually. The shift of operating profits will lead to a unique corresponding shift of tax revenue.

EStÄR 2012 are to be published along with an accompanying letter from the BMF. The letter will allow taxpayers when determining manufacturing costs to waive the estimate of parts of the reasonable costs of public authorities, reasonable expenses for welfare facilities, voluntary social benefits and occupational pensions (Section 6.3(3) Income Tax Regulations). The Federal Government will verify the claimed compliance costs and once the results have been drawn up consider appropriate measures with the renewed involvement of the NKR.

The tighter regulation of the financial market sector at international, European and national levels entails compliance costs for market participants and public authorities.

The Implementation of the Alternative Investment Fund Managers Directive Act is

intended to create a Capital Investment Code (KAGB) replacing the Investment Act which places all financial market players (managers and funds) under the same financial regulator. The implementation of the EU requirements of this necessary module within a new regulatory framework for the financial markets will probably mean compliance costs of €49.1 million annually for businesses and €5 million every year for public authorities.

The implementation of the EU Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms is designed to strengthen the resilience of the banking system in times of crisis by means of new equity and liquidity standards and to improve banks' risk management and disclosure requirements. Equity-related risk rules, large exposures and liquidity requirements as well as requirements regarding the equity of supervised institutions and for the licensing and supervision of banks and investment firms are expected to burden businesses and public authorities with annual compliance costs of €15 million and €4.4 million respectively. Much of this expenditure will result from the lowering of the reporting threshold for loans exceeding €1 million, the rules on capital buffers, new reporting requirements to European institutions, and the possibility of stress tests.

The further regulation of the online gambling market by means of the Money Laundering Amendment Act adapts German gambling law to European legal requirements. Under the Money Laundering Act, obligations are imposed on both organizers and facilitators of online gambling. In addition, duties of care and organizational obligations are imposed on providers of Internet gambling in order to meet the increased risks of the identification of players and the cash flow necessary to operating online gambling. The compliance costs for businesses are estimated at about €3.7 million. Online gambling participants will each require about five minutes to provide the necessary information now required by law.

## Federal Ministry of Economics and Technology

The **reregulation of legislation for financial brokers** has enabled the BMWi to carry out the aim contained in the coalition agreement to create a consistent financial services law and strengthen the protection of investors. As stipulated in the coalition agreement, the standards imposed on professional financial brokers and advisers have been standardized in terms of qualifications, registration and professional indemnity insurance. In addition, the disclosure, advice and documentation obligations already applying to the sale of financial products by banks now also apply to professional brokers. This ensures that investors enjoy the same high level of protection regardless of whether they acquire financial assets from banks or independent agents.

The higher standards imposed on professional financial brokers to protect investors makes new administrative costs for businesses inevitable. When calculating the resulting administrative costs, the BMWi assumed they would apply to 80,000 professional brokers (probably an overestimate), who would incur annual administrative costs totalling €94 million. There are also one-off conversion costs for businesses of €57 million.

In its statement on the draft legislation to amend the laws governing financial brokers and investment tabled jointly by the BMF and BMWi, the NKR declared that no cheaper alternatives were apparent regarding the regulation of the sale of financial products. In particular, it reported that regulating professional financial brokers in the Banking Act (which was indeed debated in the legislative process) would have resulted in significantly higher administrative costs for businesses.

The **Act on the Establishment of a Market Transparency Unit for Electricity and Gas Wholesale Trading** is aimed at ensuring transparent pricing in line with competition law. The continuous observation of the market by the regulator is intended to remove information gaps and boost confidence in the

integrity of the markets and competition to benefit consumers. The law also provides for monitoring pricing on the fuel markets to ensure compliance with competition law to make it easier to uncover and punish violations of antitrust legislation. To this end, operators of public petrol stations and the companies dictating the prices at the pumps have to report all changes to their fuel prices in real time to the Market Transparency Unit. The Market Transparency Unit for Fuels forwards this price data electronically to providers of consumer information services.

The law authorizes the BMWi to issue regulations governing the specific requirements for reporting obligations. Because of this and existing statutory reporting obligations, the act does not directly cause any compliance costs regarding the wholesale of electricity and gas. However, the new disclosure obligations related to the observation of fuel markets result in costs for business which are to be determined in the more detailed ordinance.

The Market Transparency Unit Act does not create any additional compliance costs for citizens. However, additional personnel and material costs are incurred by public authorities in setting up the Market Transparency Unit for Electricity and Gas Wholesale Trading and the Market Transparency Unit for Fuels. Then again, these costs will be offset by savings since time-consuming individual enquiries are no longer required as well as synergies in general monitoring tasks.

The compliance costs for business stemming from the Market Transparency Unit Act were significantly reduced during parliamentary proceedings compared to the Federal Government's original bill as far as market monitoring in the fuel sector is concerned, especially at the instigation of the NKR. Although the reporting frequency was stepped up, the scope of data required by reporting obligations is now smaller. In view of the bureaucracy entailed by allocation and to reduce the burden on businesses, quantity data need no longer be reported. Moreover, the act dispenses with the reporting requirement contained in the origi-

nal draft for refineries and wholesalers owing to the considerable administrative burden. Manufacturers' selling prices for fuel are now only forwarded to the antitrust authorities on request if misgivings arise.

The Federal Statistical Office was tasked with the ex ante estimation of compliance costs in the fuel sector. The estimates were mainly carried out on the basis of company surveys with attention also being paid to alternative regulations. The findings were then discussed at a workshop attended by representatives of the BMWi, the Federal Cartel Office and the fuel industry. The NKR was closely involved in this process.

Over the past few years, the purchase of electricity for the grid from decentralized systems, especially photovoltaic (PV) systems producing power from solar energy, has substantially increased. Accordingly, these systems have now attained systemic relevance for the electricity supply network. PV systems installed by 2011 are mostly equipped with a fuse that trips and shuts down the system if the frequency is too high or too low. However, simultaneously shutting down the systems affected could create instability, placing the local power system in jeopardy and possibly even causing a blackout through Europe. To eliminate this risk, existing PV systems had to be upgraded. Under the **Technical Safety and System Stability for Electricity Networks Regulations (SysStabV)**, operators of electricity distribution networks are obliged over a period of three years to upgrade the inverters of affected PV systems such that they cannot all be switched on and off at the same time. Operators of PV systems must submit the information required for this upgrade to the operator of their distribution network and allow the necessary work to be carried out on the inverter.

The compliance costs for businesses are mainly incurred by operators of distribution networks, who are required to perform the upgrade. The upgrade costs were estimated at a maximum of €170 million.

In addition, the upgrade will create administrative costs of about €20 million for the operators of distribution networks, e.g. for writing to the operators of PV systems, data management, and tendering for installation, including contracting and payment. These costs are likely to vary depending on the number of PV systems and the availability of installers in the area covered by the distribution network. The costs incurred under these regulations can be classified as permanently non-controllable costs by operators of distribution networks under Section 10 in connection with network charges and therefore passed on to the end user. This will mean an increase in network charges and the Renewable Energy Sources Act (EEG) levy for the duration of the upgrade process (three years) by an average of about 0.015 cents per kilowatt hour.

Under Section 9(1), operators of PV systems are obliged to provide information required for upgrading to the relevant distribution network operator such as the model and serial number of the inverter so that the fitter need not make more than one visit. Given the existence of about 315,000 PV systems, meeting this disclosure obligation will create costs of about €1 million.

The upgrading required by these regulations is essential to maintain the stability of the electricity network. They came into force on 26 July 2012 and the upgrade process has already begun. Nothing is known about the costs incurred yet since the 'first' upgrade deadline (for systems > 100 kW peak) will only expire on 31 August 2013.

The amendment of the Signature Act announced in the position paper dated 14 December 2011 means that companies and public bodies should be able to use documents in electronic procedures more easily regarding authenticity and integrity.

This amendment will make it simpler for businesses and public authorities to use electronic signatures, since legal entities, public authorities and courts (public bodies) will be able to produce advanced signatures on a legally

secure basis. This is a substantial simplification, since at present only a few individuals can create an advanced electronic signature within companies and public bodies

After work began on the draft legislation, the European Commission tabled a draft Regulation on electronic identification and trust services for electronic transactions in the internal market. It includes the introduction of an 'electronic seal' for legal entities, the function of which corresponds to the advanced electronic signature planned by the Federal Government. In addition, apart from the 'electronic seal', legal entities would also be able to use the more secure 'qualified electronic signature'.

Once it goes into effect, the regulation will also become a directly applicable law in Germany. The requirements and legal effects of the electronic signature will then be based on the new European regulation and not the German Signature Act.

Corporate investment that would have been incurred for the use of the German form of the signature would have been in vain. To avoid this, the Federal Government abandoned its original plan and is now involved in the negotiations on the regulation in Brussels, trying to maximize simplification and avoid disproportionate burdens.

### **Federal Ministry of Labour and Social Affairs**

There were mainly three legislative proposals in the BMAS's purview that concerned compliance costs.

The draft **Act on the Reorganization of Public-Sector Accident Insurance Institutions, the Amendment of the Social Courts Act and the Amendment of Other Acts (BUK-NOG)** continues the streamlining and modernization of statutory accident insurance introduced by the Accident Insurance Modernization Act of 30 October 2008. For this purpose, the Federal Accident Fund and the Railway Accident Fund are to be incorporated into a new public-sector

accident insurance fund known as the Federal and Railway Accident Fund at 1 January 2015. In addition, the Post Office and Deutsche Telekom Accident Insurance Fund is to be merged with the Transport Industry Trade Association at 1 January 2016 to form the industrial Trade Association for the Post Office/Logistics/Telecommunications.

Moreover, the draft legislation provided for necessary amendments to the Social Courts Act as well as other social codes and additional acts.

The following requirements will affect compliance costs:

**Reorganization of public-sector accident insurance institutions:** The anticipated compliance costs from the proposed legislation governing the Federal Accident Fund and the Railway Accident Fund is estimated at around €1.3 million (€650,000 per accident fund). About €1 million of this is needed to introduce a single IT infrastructure. The expenditure on other conversion-based adjustments is estimated by the Federal Accident Fund and the Railway Accident Fund at about €300,000 and by the Post Office and Deutsche Telekom Accident Insurance Fund and the Transport Industry Trade Association (including the adaptation of an already unified IT infrastructure) at around €340,000. These one-off conversion costs will be offset by long-term savings in the administrative costs of the merged insurance fund brought about by synergy. The restructuring of federal public-sector accident insurance will not generate any compliance costs for the member companies. No disclosure requirements will be introduced, amended or repealed.

**Auditing changes in relation to the payment of the social security contribution for artists:** An editorial clarification in Section 28p(1a) SGB IV is designed to ensure that the auditing services by the German Pension Insurance (DRV) in future audit all employers at least once every four years as part of the employer auditing provided for by Section 28p(1) SGB IV to see whether they meet their obligations under the Artists' Social Security Act and pay

the social security contribution for artists on time and in full. The additional compliance costs for the DRV resulting from the changes to audit practice can only be roughly estimated owing to the uncertainty in the basis of calculation and will probably be in the order of €3–6 million annually. The burden on businesses will be reduced by about €1.5 million every year owing to the labour-intensive, expensive correspondence, which previously caused administrative costs of €2.4 million annually.

**Needs-based, electronic issuance of certificates of employment:** To cut red tape and simplify administration, the draft legislation contains changes to the Third and Fourth Books of the Social Code (SGB IV). In future, a certificate of employment will only be issued when employment is terminated if requested by the employee or the Federal Employment Agency (BA). In addition, employers are to be granted the opportunity to send the certificates they produce to the BA electronically. These legal amendments will reduce the BA's compliance costs by about €8.2 million annually, although one-off implementation costs of around €8.7 million will arise. The legal amendments concerning certificates of employment and their electronic submission will reduce businesses' annual administrative costs caused by this disclosure requirement by approximately €52.6 million annually. This will enact a measure adopted by the Federal Cabinet on 28 March 2012 and meet a demand long voiced by employers' organizations. As a result, the BMAS is making yet another ministerial contribution to cutting bureaucracy.

**Changes to accident insurance verification:** Changes to make verification procedures in accident insurance more efficient are expected to reduce the compliance costs of the German Pension Insurance (DRV) and the accident insurance institutions by a total of about €6 million annually. The conversion of the verification procedure will cost the DRV one-off expenditure on IT of about €300,000.

**The Amendments to Marginal Employment Act** based on an initiative by the parliamentary groups of the Christian Democrats, Christian

Socialists and Liberals came into force on 1 January 2013. It contains the following main provisions:

- Introduction of compulsory pension insurance for low-wage workers with the possibility of exemption on request
- An increase in the monthly income limit for low-wage workers from €400 to €450 to reflect general wage development
- An increase in the income limit in the transition zone by €50 a month so that the transition zone now includes monthly wages in the range between €450.01 and €850.00.

The biggest increase in businesses' compliance costs (€22 million per year) will result from the fact that employers will have to accept written applications from employees for exemption from pension insurance and attach them to their wage documents.

For public authorities, costs will in particular be incurred for additional auditing amounting to approximately €4 million a year.

In addition, businesses will have to pay one-off conversion costs due to employers having to flag, in their master data, low-paid employees in the industrial sector at 31 December 2012 and employees affected by the transitional rules for the transition zone.

These costs will be offset by the improved protection of the low-wage employees in the statutory pension insurance scheme. Moreover, the compliance costs for low-wage employees who are subject to compulsory insurance in the statutory insurance scheme will be reduced. As a result, compliance costs will only be incurred by citizens whenever low-wage employees opt out of compulsory insurance and hence the full protection offered by the statutory pension insurance scheme.

**The Sixth Regulations on Mandatory Working Conditions in Painting and Varnishing Trades** set a binding minimum wage for all relevant

employees in Germany. The regulations do not introduce, amend or repeal any disclosure requirements.

The regulations have resulted in annual compliance costs of approximately €3.5 million for businesses since the collective agreement declared to be generally binding led to an increase in the minimum wage for some employees.

When the regulations were introduced, the sector employed about 135,000 people. However, the increase in the minimum wage brought in by the ordinance only affected employees who were paid below minimum wage and who wouldn't have been able to claim the increased minimum wage under the collective agreement.

### Federal Ministry of Food, Agriculture and Consumer Protection

Mainly two projects within the purview of the Federal Ministry of Food, Agriculture and Consumer Protection (BMELV) have affected the compliance costs for businesses and public authorities.

**The Third Animal Welfare Act Amendment Act** prohibits the unanaesthetized castration of piglets since a number of viable alternatives are available that reduce the animals' suffering. It also increases the number of institutions that have to appoint an animal welfare officer and the types of animal experiments that now require approval instead of just notification. These requirements are expected to result in annual compliance costs of €161.2 million for businesses and €2 million for public authorities. However, these costs are necessary to achieve the aim of improving animal welfare. The compliance costs also arise from the implementation of EU requirements intended to create a level playing field for industry and research throughout the EU and to enhance the protection of animals used for scientific purposes.

**The Sixteenth Medicines Act Amendment Bill** aims to improve the responsible use of antibiotics to treat sick animals in order to limit the risk of the emergence and spread of antibiotic resistance. It is also intended to enable the monitoring authorities to take action more effectively, particularly in livestock farming.

At the heart of this bill is a legal framework for an innovative, farm-based antibiotics minimization strategy enabling the assessment of the frequency of antibiotic treatment at farms and external comparison with other farms. It is joined by testing obligations and mandatory procedures for farmers (including in conjunction with their veterinarians) and the farming monitoring body

The annual compliance costs for businesses caused by the new legislation are currently estimated at €41.9 million.

The aim behind these measures is to ensure that the use of antibiotics is reduced to the minimum genuinely required for treatment. If this objective is pursued rigorously and fewer cases of disease occur that need to be treated with antibiotics, the resulting reduced spending on veterinarians and medicines will save farmers an amount of money that cannot currently be estimated.

Annual compliance costs of about €22.1 million will result for public authorities, although this estimate is beset by many uncertainties. In the medium term, spending covered by the budgets of the *Länder* is expected to be reduced since monitoring can be geared more closely to risks, enabling personnel to be deployed in a more focused manner and saving resources. The compliance costs are justified by the goal of minimizing the use of antibiotics on animals. Restricting the emergence and spread of antibiotic resistance will protect human and animal health and safeguard the availability of effective drugs. Maintaining the effectiveness of antibiotics intended for animals is very important for animal health and welfare. The bill also includes an evaluation clause.



All in all, the regulations will make an important contribution to the protection of food safety and optimizing animal husbandry. The proposed legislation is also expected to deliver important impetus to consumer health protection.

### Federal Ministry of Defence

The **Bundeswehr Reform Implementation Act** (BwRefBeglG) was adopted by the Federal Cabinet on 15 February 2012 and entered into force on 26 July 2012. The project causes annual compliance costs for public authorities of €317,000. This expenditure results from the application of the staff adjustment measures contained in Articles 1 and 2 BwRefBeglG governing retirement, the change of employment contracts, and staff transfers within the public sector. Since these measures are limited until the end of 2017, the increase in compliance costs is restricted to the same period. In addition, the introduction of new vocational training provisions in the Military Pensions Act (Article 14 BwRefBeglG) will create one-time conversion costs of €62,000 for the necessary training of staff and the alteration of data processing systems.

The **Fifteenth Soldiers Act Amendment Act** (15. SGÄndG-E) standardizes voluntary military service as a special civic service in the Soldiers Act. A distinction is drawn between it and the service of professional soldiers as well as the military service of soldiers on fixed-term contracts with a longer duration. The rules governing voluntary military service previously contained in Section 7 of the Compulsory Military Service Act have been incorporated in the Soldiers Act unchanged.

The legal transfer of voluntary military service does not affect the compliance costs associated with this type of military service for citizens, business or public authorities. It merely means that the legal bases for all military services in peacetime have been amalgamated within the Soldiers Act, hence aiding administrative simplification.

The **Regulations on the Presumption of the Causation of Mental Disorder by a Mission Accident** (EinsatzUV) of 24 September 2012, which came into force on 9 October 2012, does not cause any additional compliance costs for citizens, business or public authorities.

The regulations have so far only had practical relevance regarding the application of the Mission Redeployment Act (transfer to a protection period or reappointment to special deployment). The practice since their coming into force has confirmed the compliance cost assumptions made.

The following three ministerial decrees have no impact on compliance costs for citizens or business, but will change compliance costs of public authorities:

Following the repeal of the **Decree on the Formation of District Staff Councils in Military Entities** (MilBezPersRatV) and the simultaneous entry into force of the Armed Forces District Staff Councils Decree (SKBPRV), new district staff councils are to be elected. Costs will be incurred by the holding of elections and the training of electoral boards. However, they will be offset by the higher cost savings resulting from reducing the number of district staff councils in military entities from currently nine to five.

The change to the **Election Decree for the Soldiers Participation Act** (SBGWV) will cause annual compliance costs of around €25,000 for public authorities. The closure of army court chambers in Hanover and Karlsruhe stemming from the **Decree on the Regulation of the Departments of Courts Martial and the Creation of Army Court Chambers** (TrDGV) will cause negligible one-off relocation costs for personnel and materials.

### Federal Ministry of Family Affairs, Senior Citizens, Women and Youth

In connection with the Development of Aid for Pregnant Women and Confidential Birth Bill, which was discussed by the Cabinet on

13 March 2013, the BMFSFJ proposed deleting a special provision introduced following German reunification (Section 25 of the Law on Prevention and Management of Conflicts of Pregnancy (SchKG)). By doing so, the BMFSFJ is contributing to bureaucracy reduction and standardizing the law. Assuming the above bill is passed, the current amounts specified in Section 19(2) SchKG will apply throughout Germany from 1 May 2014.

The special provision needs to be abolished because the co-existence of Sections 19 and 25 SchKG can lead to unfair results which contradict the purpose of the provision. For example, a woman in western Germany may be charged for an abortion whereas a woman on the same income living in eastern Germany (where the cost of living is lower) may be exempted.

Once the process of drawing up and coordinating the regulation has been abolished, public authorities will save an estimated €2,600 per year.

The Second Regulations on the Revision of Fees pursuant to Section 25(1) SchKG revises the amounts covered by the reimbursement of terminations carried out on the basis of the consultation arrangement (and which are therefore not refunded by statutory health insurance) in the *Länder* of Mecklenburg-Western Pomerania, Brandenburg, Saxony, Thuringia, Saxony-Anhalt and Berlin.

Section 25(2) SchKG provides for the amounts applying to eastern Germany being revised by legal regulations taking into account income growth there annually at 1 July with the approval of the Bundesrat until they reach the amounts charged in western Germany.

No quantifiable compliance costs were caused for citizens by the revision at 1 July 2012. The raised income limits applying to the reimbursement of termination costs caused the number of potential applicants to rise by about 300 cases in 2012, meaning that the administrative costs for citizens overall have risen marginally.

In public authorities, the health insurance institutions have a duty to find out about the altered amounts since they are decisive for the reimbursement of costs by the *Länder*. The resulting administrative costs are marginal and not quantified.

The administrative and personnel costs cannot be quantified separately for the *Länder*. Since the reimbursement costs per case vary from one *Land* to the next, the impact on implementation costs is also difficult to predict. Based on nationwide experience, the average costs are approximately €350 per case, meaning that the costs incurred by the *Länder* have risen in total by about €100,000 compared to the previous year.

The approval procedure for providers of emigration advice is currently carried out by the *Länder*. This procedure is to be simplified and accelerated for applicants by amending the **Emigrants Protection Act** (AuswSG) by centralizing it in the Federal Office of Administration (BVA). Authorization and refusal are to apply to the entire country. Thus, the method will reduce bureaucracy.

The conversion costs for business are about €12,000 (including €2,000 in administrative costs) because all previous consultants will have to reapply for approval. The compliance costs of each new application will be €235 (including €35 in administrative costs). The BVA will incur one-time expenses of €5,000 to process these applications. The transfer of administrative responsibility to the BVA will reduce the administrative costs for the *Länder*.

The additional costs for business will be significantly reduced. The fees to be charged by the BVA are below €200 per application. By contrast, in some cases fees of up to €500 have been levied by the *Länder*. Accordingly, as well as standardizing and speeding up the procedure, this legal amendment will also bring about significant cost reductions for most applicants.

At 1 August 2013, the Introduction of Childcare Allowance Act will come into force. This is a

new benefit paid to parents with a child born after 31 July 2012 and who do not make use of childcare facilities under Section 24(2) in conjunction with Sections 22–23 of the Eighth Book of the Social Code (SGB VIII). In the first year after its introduction, it will amount to €100 per month for children aged one, and from 1 August 2014 €150 for children aged one and two.

The introduction of new benefits is always associated with additional costs for public authorities. Moreover, citizens have to spend time applying for benefit payments. However, when the law was drawn up, attention was paid to minimizing the costs for citizens and public authorities. The care of children in crèches and kindergartens under Section 24(2) SGB VIII, the non-use of which is a central prerequisite for the receipt of childcare allowance, is legally and conclusively determined as a benefit covered by child and youth services, and can be organized with the least possible effort. Childcare allowance is also governed together with child benefit in the Federal Parental Benefit and Parental Leave Act. The aim is to tap synergies that may arise due to standardized eligibility requirements and procedures.

The new disclosure obligation “Request for Childcare Allowance” will require citizens to spend on average 60 minutes per application. Assuming 550,000 applications per year once the law comes into effect, the administrative expenses are estimated to total €1.1 million annually.

The continuous compliance costs for public authorities at the local, *Land* and federal level will amount to €16.1 million for processing applications and issuing notices, asserting claims for reimbursement and ongoing statistical surveys. One-time conversion costs incurred in particular due to IT adaptation and the creation of new application forms will total €197,000. However, depending on the way in which the payment of childcare allowance is organized, synergy effects could lead to reduced costs.

## Federal Ministry of Health

In 2012, compliance costs were affected by a total of nineteen legislative proposals in the purview of the Federal Ministry of Health (BMG). The laws with the biggest impact on citizens were the Care Reorganization Act (PNG) and the Patients’ Rights Act. The biggest effect for public authorities came from the Cancer Screening and Register Act and the Care Reorganization Act. The main reductions for business resulted from the Second Regulation Amending the Drinking Water Regulations and above all the abolition of the quarterly practice charge.

In addition to improved benefits for people suffering from dementia, the PNG particularly addresses the following areas:

- Greater flexibility in the use of services and the strengthening of the ‘rehabilitation before care’ principle;
- The strengthening of new residential and long-term care types;
- Better pension insurance-related conditions for people providing home care to multiple dependants requiring long-term care;
- The improvement of medical care, especially in nursing homes, and the encouragement of self-help and voluntary work.

In addition, the possibility of additional personal provision qualifying for tax relief has been created in the field of long-term care.

The compliance costs result from the improved benefits for those requiring long-term care brought about by the PNG. They primarily concern the long-term care insurance institutions in the private and public sector. The compliance costs for public authorities amount to one-off costs of €5 million (mainly due to technical conversion and contracting) and about €15 million annually (mainly for sending further information to policyholders).

The implementation of the improved benefits in the PNG for those requiring long-term care creates one-off compliance costs for citizens. However, their annual compliance costs are reduced.

Under the **Patients' Rights Act**, for which the Federal Ministry of Justice and the Federal Ministry of Health were chiefly responsible, numerous rights and duties of patients and treatment providers which previously were largely based on case law are now to be coherently codified in the BGB German Civil Code. The resulting transparency for the benefit of citizens will lead to substantial savings, although they are difficult to quantify in advance. The expected reduction in applications to the expert committees for medical malpractice owing to a lack of risk awareness alone is expected to save citizens 5,300 hours annually – a reduction of three hours per case. Moreover, the law will strengthen the rights of statutory health insurance policyholders. For example, policyholders are to be supported if medical malpractice is suspected, declarations of willingness to participate in special forms of treatment can be revoked, and deadlines for responses to applications for treatment submitted to health insurance institutions are to be introduced. The compliance costs will mostly be incurred by the statutory health insurance funds. One-time expenditure of around €1 million will follow from necessary amendments to their articles of association. The annual total compliance costs which are expected to be incurred by the statutory health insurance funds as a result of the Patients' Rights Act are estimated at around €5.5 million. They result from the acceleration of approval procedures provided for by the law. If upon an application for treatment an advisory opinion is required from the health insurance funds' medical service or if the deadline for a response cannot be met, the policyholders are to be notified. The assumption of approval included during parliamentary proceedings for cases in which health insurance institutions fail to give a satisfactory explanation as to why they cannot meet the deadline for a response means compliance costs for policyholders are reduced since they will no longer have

to set a time limit for their health insurance institutions. It can be assumed that the costs incurred by the health insurance institutions will be largely offset by cost savings resulting from adverse events and payment refunds when mistakes during treatment have been ascertained. However, these amounts cannot be quantified.

The **Cancer Screening and Register Act (KFRG)** implements two key aims of the National Cancer Plan designed to improve cancer control in Germany by expanding cancer screening and the nationwide expansion of clinical cancer registers. These measures are estimated to cause annual compliance costs of approximately €85 million for public authorities, chiefly for statutory health insurance funds and the *Länder*. These costs arise primarily from the introduction of organized screening programmes for cervical and bowel cancer using a personal invitation procedure and the extensive funding of the annual operating costs of clinical cancer registers by the statutory health insurance funds. The compliance costs resulting from the introduction of organized cancer screening programmes is difficult to estimate since the Federal Joint Committee is legally responsible for their content. The calculated compliance costs for business of around €14 million per year are caused by the voluntary participation of private health insurance companies in the above measures. For citizens, the planned invitation procedure for cancer screening and the possible exercise of objection rights will create annual compliance costs of at most €100,000.

The compliance costs incurred primarily by the statutory health insurance funds as a result of the KFRG are justified given the resulting progress in cancer detection and the quality of cancer care for cancer patients. Moreover, they are warranted by the efficient use of resources since the measures will improve not just the quality of treatment but also enable necessary data for the evaluation and development of cancer treatment to be obtained. To limit the administrative burden on healthcare providers (businesses), work is being systematically carried out under the National Cancer Plan on a uniform tumour data set relying on the

minimum amount of data necessary to provide a basis for data collection in clinical cancer registration. The main stakeholders in the field of cancer care have made a public pledge to this effect.

The **Second Regulation Amending the Drinking Water Regulations** has reduced bureaucracy for businesses. It was introduced following a resolution passed by the Bundesrat regarding the First Regulation Amending the Drinking Water Regulations 2001 (TrinkwV 2001). The compulsory examination of large-scale commercial drinking water heating systems for Legionella, the obligation to report the existence of such systems, and the submission of the examination findings to the public health department led to capacity bottlenecks at health departments. The amended regulations which came into effect from 31 October 2012 and 14 December 2012 abolished the need to report the existence of water heating systems on this scale and increased the examination interval to three years, cutting compliance costs for the housing sector by two thirds, corresponding to approximately €360 million. At the same time, the costs of monitoring non-public, large-scale commercial drinking water heating systems for Legionella were reduced as well – a change which also reduced the compliance costs for public authorities by around €35 million. The compliance costs for citizens have not changed as a result.

The quarterly practice fee was abolished by the introduction of the **Need for Care Services in In-Patient Care Facilities and Rehabilitation Clinics Act** (APBG) on 1 January 2013 after the intended steering function had failed to materialize. Its abolition has made a significant contribution to bureaucracy reduction at doctors' and dentists' surgeries as well as at hospitals' A&E departments. According to estimates by the Federal Statistical Office, the compliance costs of medical, dental and psychotherapeutic practices have been reduced by about €336 million.

## Federal Ministry of Transport, Building and Urban Development

Changes to compliance costs brought about by legislative proposals tabled by the Federal Ministry of Transport, Building and Urban Development (BMVBS) are due mainly to the implementation of European and international requirements to the letter as well as mandatory traffic safety rules.

Compliance costs were mainly affected by the following projects:

Under the **Eighth Railway Regulations Amendment Act** (8. ERÄG), the entity in charge of maintenance was introduced which is responsible for the safe condition of the rolling stock it takes on. The additional costs incurred amount to €33.9 million for businesses and €6.6 million for public authorities, chiefly owing to the exact implementation of higher EU requirements for maintenance and documentation (Interoperability Directive 2008/57/EC and Railway Safety Directive 2008/110/EC).

The Rail Regulation Bill submitted by the Federal Government is a revision of rail legislation with the aims of:

- Boosting efficiency;
- Improving access to rail infrastructure;
- Strengthening the powers of the Federal Network Agency.

The overall goal is to improve competition on the railways.

Particular attention is paid to tariff regulation, especially for the compulsory services of rail infrastructure operators and the use of passenger stations in order to incentivize the industry. In future, these fees will be subject to the approval of the Federal Network Agency (FNA) as the regulatory body. As a result, additional disclosure obligations have become necessary.

These and other requirements such as a new obligation to provide switching services

will lead to additional compliance costs for businesses (estimated at €3.6 million) and public authorities (estimated at €2.3 million). This does not take into account cost reductions elsewhere, such as those brought about by raising efficiency.

The aim of the draft **Fourth Act Amending the Road Traffic Act and Other Laws** is to replace the complicated, confusing, unclear rules on the points system for traffic offences and the Central Register of Traffic Offenders with simpler, more transparent rules and hence contribute to improving road safety.

Another important aspect of the amendment regarding road safety is the transformation of the previous driver development seminar to reduce a driver's registered penalty points into a driving aptitude seminar reflecting the latest scientific findings. This will combine educational and psychological elements and be subject to quality assurance.

Overall, the costs incurred by businesses (driving schools and driving psychology consultants) by switching to the new driving aptitude seminar will total about €7.7 million annually, although they will be partly offset by increased revenue. The expenditure of public authorities will be reduced by about €633,000 annually by the new driving aptitude register and the full automation of the register (including its electronic maintenance).

### **Federal Ministry for the Environment, Nature Conservation and Nuclear Safety**

The additional net annual compliance costs for businesses in 2012 were €160.5 million. This included almost €12 million in administrative costs. Expenditure for public authorities grew by €15.3 million. No compliance costs were incurred by citizens.

The increase in compliance costs at the BMU was mainly down to the **First and Second Ordinances Implementing the Directive on Industrial Emissions**.

The **First Ordinance Implementing the Directive on Industrial Emissions** increased compliance costs for businesses by €26.7 million. This includes a new disclosure obligation with costs of €960,000.

A key part of this ordinance translates Directive 2010/75/EC of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control (Recast)) into national law. The directive reflects European emissions standards more closely when setting emission limit values.

The central aim of the directive is to establish permit conditions for the operation of plant based on best available techniques. The provisions in this framework ordinance supplement those of the Industrial Emissions Directive Implementation Framework Act at the ordinance level.

The **Second Ordinance Implementing the Directive on Industrial Emissions** has also contributed to an increase in compliance costs with additional one-off compliance costs of €845.8 million and annual compliance costs of €73.3 million for businesses. This ordinance covers the implementation of the provisions contained in Chapters II–VI of the above directive at the ordinance level, which necessitated several amendments to the Ordinances on the Federal Pollution Control Act.

The increase in compliance costs was unavoidable due to the requirements of European legislation.

The **Ordinance Restricting the Use of Hazardous Substances in Electrical and Electronic Equipment** (ElektroStoffV) will result in annual compliance costs for businesses of €46.1 million (increasing until 2017) and one-off compliance costs of €526 million.

The ordinance implements Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of certain hazardous substances in electrical and electronic equipment. The aim of the RoHS 2

Directive is to reduce the level of pollutants in electrical and electronic equipment in order to help protect human health and the environment and to contribute to the green recovery and disposal of disused electrical and electronic equipment.

In addition, there were numerous cost-neutral legislative proposals that did not cause any compliance costs whatsoever.

However, a number of legislative proposals are expected for 2013 which will reduce compliance costs. They include:

- The **Ordinance Amending the Ordinance on Paint and Varnish Containing Solvents**, which is set to cut businesses' annual compliance costs by €132,000;
- The **Ordinance on the Terms and Conditions for the Provision of Federal Geodata (GeoNutzV)** with an annual reduction of €498,000 for businesses and €540,000 for public authorities;
- The **Ordinance Amending the Regulations on Electromagnetic Fields and the Telecommunications Law Certification Procedure**, which by abolishing the disclosure obligation will reduce the compliance costs of businesses by €164,000;
- The **Ordinance Amending the Malfunction Ordinance**, which is expected to reduce compliance costs for businesses by €610,000 and for public authorities at the *Land level* by €501,000.

### Federal Ministry of Education and Research

By amending Section 36(1) **Vocational Training Act (BBiG)**, the Federal Ministry of Education and Research (BMBF) will provide for the electronic registration of apprenticeship contracts while simultaneously avoiding the repeated submission of existing training plans. The BMWi will also amend Section 30 (the corresponding provision) of the **Trade and Crafts Act (HwO)**.

The change will be part of the E-Government Act. The amendment paves the way for the electronic submission of applications for registration in the register of vocational training contracts and the Apprentices' Roll, saving both time and money. An electronic copy of training contracts can be enclosed with applications.

With about 600,000 new training contracts being signed every year, this will substantially reduce the compliance costs for not just training companies but also supervisory bodies (usually chambers of commerce and industry as well as chambers of trades and crafts). Currently, each application for the registration of a training contract has to be accompanied by a copy of the contract, which entails producing a second copy and submitting it to the agency responsible by post.

In particular by waiving the submission of the mostly extensive company training plans belonging to training contracts by post, a significant amount of work will be saved.

In addition, the amendment will emphasize that plans need not be resubmitted if they apply to multiple training contracts. It will suffice for subsequent applications to refer to a specific training plan which has already been received by the competent authority.

Assuming full use is made of the electronic process by all the companies and institutions involved, the relevant amendments to the Vocational Training Act and the Trade and Crafts Act are expected to enable savings totalling €2 million annually.

### Federal Ministry of Economic Cooperation and Development

The **Act Amending the Agreement of 8 April 1959 Establishing the Inter-American Development Bank and the Act Amending the Agreement of 18 October 1969 Establishing the Caribbean Development Bank** had no impact on compliance costs.

## The Commissioner of the Federal Government for Culture and Media

The **Third Federal Archives Act Amendment Act (BArchG)** introduces compulsory registration for German feature films. Producers of German feature films will have to have them recorded in a database set up especially for this purpose at the Federal Archives within twelve months of their first public screening. Contravention will be fined. The aim is to safeguard the national film heritage.

The compulsory registration of German feature films will generate annual compliance costs of around €70,000 for businesses and entail three new disclosure requirements:

- The mandatory registration of German films in a database at the Federal Archives (€50,000)
- Providing information on the whereabouts of a print of the film (€18,000)
- The compulsory disclosure of the change of storage location of a feature film print (€1,125)

This will create non-recurring conversion costs of €120,000 for public authorities for the establishment of a registration database for the compulsory registration of feature films. In addition, the annual compliance costs for the operation of this database will be €220,000.

The collection of film levies under the Film Funding Act (FFG) will expire on 31 December 2013. Under the **Seventh Amendment to the Film Funding Bill**, the collection of film levies will be extended until 30 June 2016, hence safeguarding the continued funding of the Federal Film Board (FFA). Moreover, the bill aims to improve the enjoyment of funded films by disabled people. For this purpose, filmmakers will be obliged to produce a version of each funded film for the visually impaired as well as a version for the hearing-impaired. Furthermore, the make-up of the FFA's committees and decision-making structures is to be adapted to the current changes. Tax liability for video-on-demand services will be extended to suppliers based abroad.

This will create annual compliance costs of around €300,000 for businesses, especially for the obligation to produce barrier-free versions, yet also cut costs by around €200,000, chiefly by introducing a minimum funding level for project films and the elimination of script development funding, including about €114,000 saved on disclosure obligations.

Public authorities will incur annual compliance costs of €14,000, which will be more than offset by the €100,000 saved (mainly by the abolition of script development funding).



## C. The Better Regulation Work Programme

The Federal Government's Programme for Bureaucracy Reduction and Better Regulation substantially has reduced administrative expenditure in Germany and promoted a greater awareness of the resulting costs whenever new legislation was drafted.

The Better Regulation Work Programme dated 28 March 2012 reaffirms the Federal Government's intention to keep the costs of complying with Federal law permanently low for citizens, businesses and public authorities.

To maintain the success of the past few years in reducing businesses' administrative costs, the change in the burden resulting from disclosure obligations is shown using an "Bureaucracy Cost Index" (see section A.1).

Apart from minimizing the burden on the addressees of legislation, other important characteristics of good legislation include transparency, clarity, and the early involvement of stakeholders at both national and EU level. The Better Regulation Work Programme deals with these qualitative elements and thus makes an important contribution to society's acceptance of the law.

The following reports show the progress of the individual measures contained in the Better Regulation Work Programme.

### C.1 Overarching, and cross-level examinations

Citizens, businesses and public authorities often need to consider a raft of requirements and meet many obligations. Therefore the Federal Government examines the compliance costs in certain areas of life and legal fields in order to minimize them. The level of progress made in these different areas varies.

#### "Optimized Reporting Method in Social Security" – OMS

The aim of the project "Optimized Reporting Method in Social Security" headed by the BMAS is to bring about simplification and optimization

for employers and social security institutions in their reporting, certification and application procedures. Started in 2012, the project is being continued in 2013.

One of the project's objectives is to explore the extent to which information from data entered electronically for a certain purpose can be used in other ways. A feasibility study is being carried out to ascertain whether reporting, certification and application procedures between employers and social security institutions can be improved and reporting channels streamlined. Since the findings are only useful if they are practically viable, proposals are examined in terms of their technical and organizational feasibility as well as compliance with data protection law.

Equal attention is paid to finding ways of reducing bureaucracy for businesses, public authorities and citizens. The economic impact on employers, public authorities and social security institutions is also taken into account. However, solutions are not to entail the full or partial mass storage of data.

Several technical methods, some in dialogue form, currently exist for communication between employers and social security institutions. In the first step, these methods were extensively documented and the results published on the project website <http://www.projekt-oms.de>. In addition, methods associated with benefits accounting used in other administrative areas were examined and documented in the same way.

Furthermore, a survey is currently being conducted of all the data and records used in social security procedures. The goal is to standardize the terms describing data fields with the same content in different procedures.

Calculating the compliance costs of the existing reporting and contributions procedures used in the social security system proved to be very intricate. The processes are very complicated and many different parties are involved. However, this initial determination of the compliance costs of existing procedures is essential if the

savings possible from future changes are to be assessed. The results of these calculations have been published in a report.

In the second phase of the project, all the participants were asked to suggest possible improvements. The some 200 proposals received far exceeded the quantity envisaged.

After the proposals had been reviewed, duplicates deleted and suggestions with related content combined, a total of 102 proposals for improvement remained. Thirty of them are currently being examined by the working groups. In order to evaluate their economic efficiency, proposals are considered in terms of their suitability, their organizational and technical feasibility, the necessary changes to records, and their compliance with data protection law.

The initial results are expected in the interim report on the OMS project, which is due in mid-2013.

### **Reduction of the application and processing burden in connection with tax and social security benefits**

A study entitled “Interfaces in Social, Tax and Alimony Legislation” was carried out by the BMFSFJ and the BMF as part of the overall evaluation of marital and family-related measures. It was presented to the federal ministries and has already been published. Results from the study will be taken into account when the findings of the overall evaluation are assessed.

The findings also need to be assessed with respect to legal changes to social, tax and alimony legislation. Ways of overcoming interfaces and reducing the application and processing burden brought about by legislation are constantly reviewed, especially regarding family benefits. In particular, the new regulations introduced by the amendment to the Federal Parental Benefit and Parental Leave Act (simplification of the concept of income) and the Advance Maintenance Payments Bureaucracy Reduction Act (especially improvement to recourse) contribute to bureaucracy reduction.

### **Streamlining electronic invoices between businesses and public authorities**

Another aim of the Better Regulation Work Programme is to improve electronic invoicing between businesses and public authorities. The sending of electronic invoices is expected to grow by at least 80% by 2020. In fact some European guidelines and forecasts anticipate this increase to be even higher.

The BMI is developing and testing the organizational, procedural and technical principles and requirements to be imposed by the federal administration system on the exchange of electronic invoices with businesses. The goal is to make electronic invoicing as simple as possible while extracting the maximum benefit from electronic procedures for all concerned.

One important requirement is a standard data format which can be employed by both businesses and public authorities, and which allows the data contained in invoices sent and received to be reused. Such a format has been developed jointly under the auspices of the Forum on Electronic Invoicing for Germany (FeRD) and is currently being trialled in a number of public authority projects. National activities are coordinated with similar efforts at the European level by FeRD.

In addition, in the IT Planning Council’s coordination project “Electronic Invoice Processing in Public Authorities”, solutions and overarching implementation recommendations are being developed which are also intended to enable administrative bodies at the level of the *Länder* and local authorities to rapidly and successfully introduce electronic invoicing between businesses and public authorities.

### **Non-profit activity in various legal organizational forms and voluntary work**

The Promotion of Voluntary Work Act has introduced a variety of new tax rules to simplify the invaluable voluntary work done in many areas of society in Germany. This is intended to incentivize voluntary work and encourage the establishment of non-profit institutions.

The Act contains the following major measures to reduce red tape and simplify voluntary work:

### **Extending the deadline for the use of funding**

Previously, funding paid out to a non-profit entity had to be used up by the end of the following year. As a result, funds were spent even if no suitable projects were available.

This period has now been extended by another year, granting organizations greater planning scope. Since funding can now be used over a longer period, it can be employed more effectively.

### **Reregulating the creation of reserves and additions to assets**

The creation of reserves and the addition of funds to assets have been reregulated. This underlines the essential importance of reserves and additions to assets in entities qualifying for tax relief, and permanently ensures that they serve their intended purpose.

In addition, entities are to be allowed to plan the creation of reserves over a longer period. If the scope for the creation of funds has not been exhausted within a year, the unused amount can now be carried over to the following two years.

Moreover, the time by when reserves have to have been created has now been regulated, creating legal certainty for the organizations concerned.

### **Increase in the maximum turnover of sporting events**

The turnover limit for the classification of sporting events as special-purpose operations is to be increased by €10,000 to €45,000 to better support sports clubs staging such events.

### **Increasing the instructor and volunteer allowance**

Tax allowances for volunteers are to be increased. The sports instructor allowance is to be increased from €2,100 to €2,400 and the volunteers' allowance from €500 to €720.

### **Reducing the burden of proof for charitable organizations**

Charitable organizations that provide services for recipients of certain social security benefits now gain from simplified rules regarding the burden of proof. Evidence of recipients' economic vulnerability can in future be provided either by means of the current benefit assessment or confirmation from the social service provider. This will simplify matters for both the entities concerned and those receiving support.

If economically vulnerable people can only be supported by a single organization owing to the special nature of the services provided, the entity may now apply for exemption from the burden of proof. This cuts red tape for charitable organizations while the application process creates legal certainty as to who actually qualifies for this simplified provision of proof.

### **Liability relief for volunteers**

The liability of those siphoning off donations for purposes for which they were not intended is to be brought into line with other liability offences. In future, liability will solely be borne by those who intentionally or through gross negligence cause donations to be used for incorrect purposes.

### **Issue of receipts for donations**

For the first time, regulations are being introduced regarding the time period in which organizations entitled to tax relief may issue receipts for donations. This creates legal certainty for both donors and the issuing organizations.

The project “**Non-profit activity in different legal organizational forms and voluntary work**” is also part of the Better Regulation Work Programme. Its aim is to explore ways of saving unnecessary costs and time for volunteers. First of all, the relevant legal forms in the non-profit sector were identified and classified by different phases (pre-establishment, establishment, operation and further development). The Federal Statistical Office conducted an exploratory expert survey among representatives of

organizations and advisory bodies in order to identify the bureaucratic barriers that needed to be addressed by the project.

The findings of these preliminary surveys were examined with respect to citizen involvement, case frequency and perceptible simplification potential in order to narrow down the field. The establishment phase and the legal form of a non-profit registered association were found to meet the criteria the most closely.

In the next stage of the project, the Federal Statistical Office is conducting a survey among association registration courts so that simplification proposals and ideas for burden reduction and improvement can be collected. Surveying different registration courts is expected to highlight examples of best practice in administrative matters and efficient processes.

After the survey has been completed, it will be decided whether administrative burdens can be reduced by including the viewpoints of association founders, the financial administration and other parties concerned, as well as which ministries should be involved in the project. The aims are to reveal barriers to implementation and to identify and quantify positive examples and simplification proposals, eventually making it possible for citizens to set up associations and organizations in a streamlined and unbureaucratic process.

### **Determination of compliance costs in the implementation of the education and participation package**

The Better Regulation Work Programme includes an examination of the way in which the education and participation package has been carried out in project initiatives already launched by the BMAS.

The education and participation benefits for children of all ages (including young adults) were the first introduced on 1 January 2011 and are used to meet children's minimum socio-cultural requirements. The education package includes:

- Benefits for personal items required at school;
- Meeting requirements for one-day kindergarten or school trips;
- Meeting requirements for social and cultural participation;
- Additional expenses for joint kindergarten or school lunches;
- Requirements for pupil transportation and additional coaching.

These benefits are mainly paid in kind. Access to benefits for education and participation for children is enshrined in the basic level of social protection for jobseekers under the Second Book of the Social Code (SGB II) or in welfare under the Twelfth Book of the Social Code (SGB XII) as well as for children from families receiving housing benefit or supplementary child benefit under Section 6b of the Federal Child Benefit Act (BKGG) and families in receipt of benefits under the Asylum Seekers Benefits Act (AsylbLG).

In October 2012, the BMAS announced a research project comprising the nationwide evaluation of the implementation and use of education and participation benefits. The *Länder* and local authority associations have been notified and included in the relevant federal-*Land* working groups. The study will examine the factors and circumstances which encourage or inhibit benefit claims and hence support or thwart the intentions of the legislature. At the same time, an extensive inventory is to be compiled of the different forms of benefits for education and participation.

This comprehensive evaluation by the BMAS includes estimating the compliance costs for the implementation of the education and participation package, which will be done by the Federal Statistical Office. In addition, a representative survey of beneficiaries over an extended period will be conducted by the Institute for Labour Market and Employment Research (IAB).

During the development of the overall research project, the BMA worked closely together with the IAB and the Federal Statistical Office. The project is currently in the award phase, which is due to be finalized in spring 2013.

It is assumed that nationwide case studies will be carried out during the overall research project. Compliance costs are to be measured on the basis of random samples in a number of other case units. Cases are to be selected jointly by the BMAS's contractor and the Federal Statistical Office.

The aim is to examine locally the way in which the different types of processes involved in implementation, procedural matters, accounting and communication are carried out in job centres and the responsible local authorities. In addition, the complexity of these processes for all stakeholders is to be investigated as is the related question of how the stakeholders interact with each other within these processes.

#### **Electronic certification and charging procedures in the shipping industry**

The aim of the BMVBS project "Shipping: Electronic Certification and Applications" was to relieve commercial shipping and the competent authorities of unnecessary bureaucracy in connection with international shipping certificates. Shipping certificates are vital for a vessel's passage; they must be kept on board and are checked by the port authorities. Since the certificates' validity is limited, they must be repeatedly applied for by shipping companies. Analysis focused on maritime shipping companies which operate with ships under the German flag.

The project examined the burden reduction brought about by conversion from previously paper-based to electronic processes. The application for certificates, the processing of applications by public authorities, and the transmission of the certificates issued to first the shipping companies and from there on board the ships concerned is to be supported electronically. For this purpose, both the current costs of paper-based certificates as well as the costs of a future electronic system were estimated.

As a possible scenario, it was assumed that in future all the steps can be reliably carried out without media conversion by accessing linked servers operated by public authorities.

The results of the project are also to serve as pointers in an international context with the aim of having electronic certificates recognized as legally binding. Another goal is to generate ideas as to how the operation of a ship under the German flag can be simplified compared to other (EU) countries merely by changing the administrative procedure.

The Federal Statistical Office carried out measurements on six selected certificates by way of example for which either the Federal Maritime and Hydrographical Agency (BSH) or the Department of Ship Safety of the Transport Professional Association (BG Verkehr) is responsible:

- Oil liability certificates for ships under Article 7 of the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage;
- Manning Document under Section 4 of the Crew Regulations;
- International Load Line Certificate pursuant to Articles 3 and 16(1) of the International Convention on Load Lines;
- Safety Construction Certificate for Cargo Ships pursuant to the 1974 International Convention for the Safety of Life at Sea (SOLAS), Regulation I/12;
- Safety Equipment Certificate for Cargo Ships pursuant to SOLAS, Regulation I/12;
- International Ship Security Certificate (ISSC) pursuant to Part A, Section 19.2 of the ISPS Code.

Representatives of shipping associations, shipping companies with vessels sailing under the German flag, and staff from the competent authorities BSH and BG Verkehr were interviewed.

The results indicate that the introduction of electronic procedures, especially for certificates applied for by shipping companies directly from public authorities (oil liability certificates and manning documents) would reduce the administrative burden. Due to the cost structure, introducing an electronic procedure with server access could decrease shipping companies' administrative burden by an estimated 60%.

As a result of the new application process, shipping companies' administrative burden could be reduced by 1–5% for certificates which are associated with shipping companies' inspection orders awarded to classification companies. Meanwhile, about 5–20% of public authorities' costs (depending on the certificates issued) could be saved by using electronic methods thanks to the smaller amount of data required for applications, the automatic generation of certificates, and the postage saved by the electronic issuance of certificates.

## C.2 Joint investigations with business associations

Another of the Federal Government's aims in the Better Regulation Work Programme is to simplify procedures to comply with legal requirements in selected areas in conjunction with business associations and with the involvement of the *Länder* and local authorities.

### Business start-ups

The Federal Government is conducting a project to explore ways of simplifying business start-ups. Alongside the BMWi, the GBü, the NKR and the Federal Statistical Office, various business associations and *Länder* are also taking part.

The project is addressing the administrative burden entailed in setting up a new firm from the business idea until initial revenue in selected areas with a particularly high number of start-ups (e.g. retail, hospitality and other economic services). Accordingly, it covers the typical procedures involved in the majority of new businesses.

During the project, the Federal Statistical Office will calculate the compliance costs, i.e. the total measurable time and costs required when setting up a business in order to comply with the legislation in force. Various scenarios are to be weighed up, and the results will enable different types of implementation to be compared. The focus is on processes involved in starting a business which are perceived as very time-consuming and expensive. Ways of simplification are to be identified, described and evaluated for individual process steps. The objective is to identify alternative courses of action in order to minimize the compliance costs of setting up a business.

The project is currently in the phase of data collection. Beforehand, the Federal Statistical Office interviewed experts from professional associations and authorities in an effort to specify the object of study and measurement.

The first results are expected to be reported in the second half of 2013.

### Employment of workers

The project "Employment of workers" was headed by the Confederation of German Employers' Associations (BDA) and the BMAS. The participants' aim was to reduce the administrative burden involved in the issuing of reports and certificates, such as when applying for benefits. To achieve this goal, at the start of the project three main subjects were identified. They were then tackled during the individual project meetings and concrete solutions put forward.

#### 1. Standardization of payslips

Under Section 108 Commercial Code (GWO), all employers must provide their employees with written payslips containing at least information about the accounting period and the composition of earnings. As well as keeping employees informed about their income, payslips are frequently used to demonstrate earnings to public authorities and other bodies. However, due to the broad scope allowed for the content of payslips in the GWO, they vary greatly in practice, making their use difficult.

The aim was to develop standardized payslips to ensure that standardized information is available to social service providers from payslips nationwide. The BMAS laid down the essential requirements regarding the content of payslips in the Payslips Regulations, a ministerial decree which was approved by the Bundesrat on 14 December 2012.

In spring 2013, working together with authorities receiving payslips as well as the BDA and the Association for Economic Administration, the BMAS will examine whether separate employers' certificates can be partially or completely eliminated.

### *2. Needs-based issuance of certificates of employment when applying for unemployment benefit*

Under Section 312 SGB III, employers must always issue departing employees with a certificate of employment containing all the relevant information regarding entitlement to unemployment benefit. This blanket obligation means that in many cases companies have to issue certificates of employment even if they are not needed because the recipient does not intend to apply for unemployment benefit (e.g. because they already have a new job). The project supported the BMAS's idea of limiting certification requirements to situations in which certificates of employment are actually necessary.

In addition, employers are to be allowed to submit certificates of employment to the Federal Employment Agency (BA) electronically.

These legal amendments were introduced in the Act on the Reorganization of Public-Sector Accident Insurance Institutions, the Amendment of the Social Courts Act and the Amendment of Other Acts adopted by the Federal Cabinet on 19 December 2012 (see also Section B– Development of compliance costs in the purview of the BMAS).

### *3. Optimized Reporting Method in Social Security (OMS)*

The third core topic is to support the OMS project, to strengthen it with proposals to further optimize reporting and certification procedures between employers and the public welfare administration, and to make practical improvements. The BDA is represented on the project advisory board, regularly sends representatives to working groups, and has submitted several optimization proposals to the OMS project (for details on the OMS project, see also section C.1).

In addition to these three core topics, the "Employment of workers" working group has discussed additional BDA proposals for bureaucracy reduction at several meetings (partly attended by other experts from the ministries) and examined their feasibility. Individual topics have been referred to specialist working groups in order to work them up in more detail.

### **Cross-border movement of goods**

The proposed improvements summarized by business associations in a working paper were discussed at a meeting of the BMF's Customs Department with the participation of the Federal Statistical Office and the GBü on 5 November 2012. The meeting divided the suggestions into those concerning the EU as a whole and those which are more appropriate for the national level. Some of the latter have already been implemented through increased staffing, such as the difficulty in getting hold of the IWM-Zoll Customs Information and Scientific Management Unit (which is the first point of contact for general customs enquiries from businesses and citizens).

The business associations announced a new working paper analysing import and export processes, which if necessary will be the subject of further talks.

### **Taxation: From self-assessment tax returns to payment of taxes**

The project working group "Simplifying the Payment of Taxes" was constituted in early 2012. Its aims are to examine taxation procedures

ranging from filing self-assessment tax returns to paying the taxes owed, and to find ways of reducing the compliance costs, especially for businesses. The working group consists of representatives of the BMF, the Federal Statistical Office, the GBü and several business associations, such as the German Confederation of Skilled Crafts and Small Business, the Federation of German Industries and the German Association of Chambers of Industry and Commerce. Representatives of the NKR act in an advisory capacity.

Currently, the working group is exploring the increased electronic archiving of business documents. By making more use of the possibility of legally compliant electronic archiving, businesses' administrative costs in connection with the archiving and storage of invoices and other documents such as receipts can be reduced.

The main aims of the project are as follows:

- To identify potential barriers to electronic archiving in businesses (especially regarding business processes and organizational structures), the effects of system changes in hardware and software, and legal procedural requirements stemming from for instance tax, trade and social legislation;
- Identifying and examining the legal feasibility of incentives for complete electronic archiving in businesses;
- The qualitative representation of different ways of archiving in businesses and the processes involved.

To achieve these objectives, the Federal Statistical Office will conduct a survey among businesses divided into the following four phases:

1. Developing the measuring tools and measuring strategy
2. Conducting a pre-test
3. Carrying out the survey
4. Presentation of the findings and the final report

Phases 1 and 2 are expected to be completed by summer 2013.

### **Contemporary organization of electronic accounting procedures**

Taxpayers who maintain their accounts and records or store their documents electronically have hitherto had to comply with the 1995 "Principles of Computerised Accounting Systems" (GoBS) and the 2001 "Principles of Data Access and Auditability of Digital Documents" (GDPdU). Frequently asked questions about data access and the corresponding answers have been compiled in a booklet published by the BMF entitled "Questions and answers on the tax authorities' data access legislation".

To avoid taxpayers who maintain their accounts and records electronically or who want to store their documents electronically having to search for the requirements in various documents, GoBS, GDPdU and the "Questions and answers on the tax authorities' data access legislation" have been amalgamated in a single document. By updating it to reflect modern business practice, current questions regarding, say, the storage of emails and the use of scans to replace documents are answered. Moreover, the explanations contained simplify proper accounting in practice without affecting its quality or the level of information for tax purposes.

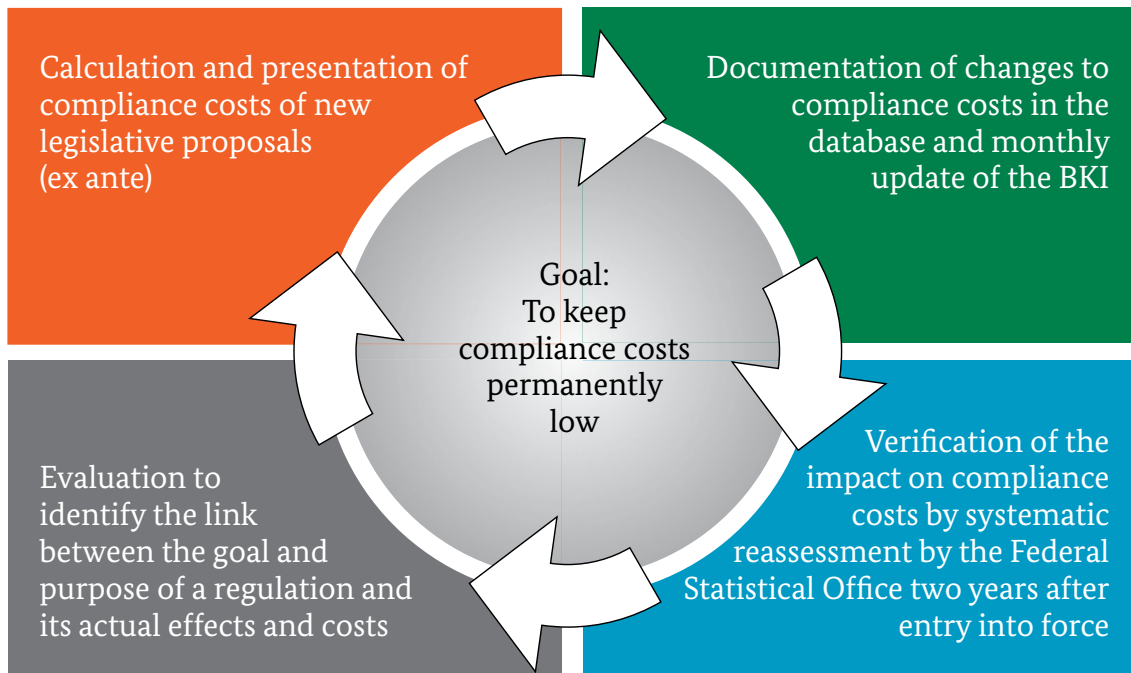
## **C.3 Evaluation methods**

In section II.3 of its Better Regulation Work Programme, the Federal Government resolved to introduce a method "under which after major legislative proposals have come into effect, the ministries systematically review within a reasonable period whether and to what extent the burden determined when they were passed has proved in retrospect to be correct." (See appendix: "Strategy for the evaluation of new legislative proposals".)

To carry out this aim, in January 2013 the State Secretaries' Committee on Bureaucracy Reduction adopted a "Strategy for the evaluation of new legislative proposals", which is to be applied



The evaluation of new legislative proposals as another important procedural element to keep compliance costs permanently low



to proposed legislation undergoing interministerial coordination from 1 March 2013.

Under this strategy, an evaluation is to be carried out in order to establish a relationship between the object and purpose of a regulation and the effects actually achieved as well as the associated costs. Regulations which fall short of the goal formulated in the draft usually cause unnecessary compliance costs. Accordingly, the method makes a significant contribution to keeping compliance costs permanently low. In future, this type of evaluation is to be carried out for all legislative proposals which are anticipated to entail annual compliance costs of more than €1 million for at least one of the addressees (citizens, businesses or public authorities). If this threshold is exceeded at least once, under Section 44(7) Joint Rules of Procedure of the Federal Ministries (GGO), information on the performance (or non-performance) of evaluation is to be provided in the explanatory memorandum.

The impact assessment process has hence been supplemented by another important procedural element to keep the compliance costs permanently low alongside the systematic ex ante

method used to estimate the compliance costs of new legislative proposals, the systematic reassessment of their calculated impact two years after their entry into force, and the introduction of the Bureaucracy Cost Index (see section A.1.2).

Apart from the level of the annual compliance costs, the ministries (as was already the case) can also have an evaluation carried out for other reasons such as high total financial outlay, special political significance or great uncertainty regarding effects or administrative processes.

Evaluation is to take place usually between three and five years after a legislative proposal has come into effect, the exact time being decided by the lead ministry at its discretion.

After a trial period until the end of 2014, the evaluation strategy itself will be reassessed for the first time. A comprehensive review of the strategy is to be carried out as soon as sufficient experience has been gathered of evaluations based on it.

## C.4 Electronic support system for preparing draft regulations

Under the Better Regulation Work Programme, the ministries are to be provided with an electronic support system to help them prepare new regulations. The aim is to bring about a uniform, continuous organizational and technical process from the first draft until the promulgation of a regulation.

To develop proposals for the implementation of this aspect of the work programme, an inter-ministerial “Electronic Legislative Procedures” working group was launched with the participation of the Bundestag and the Bundesrat. It set up two sub-working groups entitled “Stocktaking of the Legislative Process and the Need for Optimization” (chaired by the BMI) and “eNorm Development” (chaired by the BMJ). The working group will submit a policy proposal to the State Secretaries’ Committee on Bureaucracy Reduction by June 2013.

The working group’s first meeting on 22 November 2012 decided that the current legislation procedure and how it needs to be improved were to be analysed. To this end, the current workflow was to be examined by interviewing those involved in regulatory procedures – something which may also throw up proposals for additional optimization potential in the legislative process.

The “Stocktaking of the Legislative Process and the Need for Optimization” sub-working group examines the legislative procedure as a process, analyses its potential for optimization, and also evaluates technical aids to support the legislative process which are used in Germany and Europe by public authorities or businesses for similar processes.

The “eNorm Development” sub-working group deals with the optimization and extension of eNorm, a system which is already in use in some ministries and the Bundestag. eNorm is an application which directly supports legal personnel in the creation and revision of draft legislation. The organizational conditions which

are essential for the wider, successful use of this application and any necessary functional changes to the programme itself are to be analysed by the sub-working group.

## C.5 Open government and consultation procedures

Transparency, participation and collaboration bolster administrative quality, boost efficiency, and strengthen the cohesion of all societal groups. “Open data” (the greater opening up of administrative data for free reuse) provides an essential basis for this. Moreover, this policy harbours enormous economic potential stemming from the commercial reuse, dovetailing and analysis of this data.

In the “Open Government” project of the government programme “Networked and Transparent Public Authorities”, emphasis is currently placed on “open data” in order to reflect the complexity of the overall theme. A major milestone was the launch of the “GovData” portal in February 2013. The portal provides uniform access to public authorities’ cross-level data and can hence pave the way for a broader “open government” portal.

One important requirement for successful participation and consultations in connection with proposed legislation is making information easily accessible and easy to find. In this way, interested groups and citizens can be specifically addressed.

Ministries’ current practice regarding the electronic publication of legislative proposals varies. Some ministries regularly publish first legislative drafts on their websites before they are dealt with by the Cabinet. Draft legislation is usually published when the *Länder* and professional organizations are consulted (pursuant to Section 48(3) GGO).

Whether and what type of consultations take place beforehand is decided from case to case.

The Documentation and Information System for Parliamentary Procedures (DIP) publish-

es electronically all printed matter from the Bundestag and the Bundesrat. Bills are therefore available to the public in this database once they have been adopted by the Cabinet.

## C.6 Disclosure Obligation Guide

To make better use of existing data in the legislative process for new disclosure obligations, a system is to be developed which indicates what data has already been requested by what public authorities from those concerned. This is intended to avoid duplication and thus prevent new bureaucratic burdens. The “Disclosure Obligation Guide” contains descriptions of existing disclosure obligations.

By using glossaries and keywords, the guide can be used to check whether usable information is already available in existing administrative data so that new disclosure obligations can be minimized. Descriptions and classifications of existing data are required, but not the individual data itself.

In addition, an extensive disclosure obligation guide can also provide other ways of analysis. For example, ways of reducing burdens caused by existing disclosure obligations may be indicated. In the spirit of open government, the Disclosure Obligation Guide can be used to create more transparency. Sharing knowledge enables different stakeholders in public authorities to work together better.

The compilation of the Disclosure Obligation Guide will be based on the Federal Government’s Better Regulation Work Programme. In it, the Federal Government decided to assess the usefulness and legal feasibility of a Disclosure Obligation Guide containing information about what disclosure obligations exist and the legal regulations on which they are based.

In mid-2013, a feasibility study will be carried out on the Disclosure Obligation Guide, allowing recommendations to be derived for the next steps. The study will serve as a basis for further implementation and project planning, and will provide an opportunity to review the Disclosure

Obligation Guide’s compliance with data protection regulations as well as taxation and social security confidentiality.

## C.7 Cooperation with other stakeholders

### *Länder* and local authorities

The Federal Government, *Länder*, local authorities and other self-governing institutions continued and intensified their cooperation in the period under review.

In 2007, a working party known as the Federal Government, *Länder* and Local Authority Working Group was set up comprising representatives of the senate and state chancelleries and ministries responsible for better regulation as well as representatives of local authority associations at federal level. Its meetings are attended by the Federal Statistical Office and the secretariat of the NKR as well as representatives of thematically relevant federal ministries.

The meetings address the coordination of cooperation in determining the compliance costs of regulatory initiatives by the Federal Government, the involvement of the *Länder* in simplification projects, and the sharing of experience of various aspects of better regulation at the level of federal government, the *Länder* and (if applicable) local authorities. The *Länder* and local authorities are invited to respond to the Federal Government’s proposals before the final decision is taken by the Federal Cabinet.

It should be noted in particular that there are no systematic problems regarding cooperation on determining compliance costs. Enquiries and requests from federal ministries are usually addressed via the Federal Government, *Länder* and Local Authority Working Groups in charge. The *Länder* provide the information required, assuming the necessary data is already available, and sometimes have to obtain additional data. In some cases, federal ministries’ enquiries are forwarded via the Federal Government, *Länder* and Local Authority Working Group to the relevant departments of the *Länder*. Such

assessments can only succeed if the *Länder* and local authorities actively participate.

The *Länder* decide on their participation in simplification projects on a case-by-case basis (for more details of individual projects, see sections A.2, A.3, C.1 and C.2). A sufficiently large number of *Länder* and local authorities have taken part in almost all projects, and the motivation to achieve specific simplification in such projects remains high.

Nevertheless, some simplification projects by the Federal Government (such as the reduction and harmonization of the rules governing the duration for which taxation and social security documents need to be kept) have floundered on specific policy considerations of the *Länder*. In the Federal Government's view, the *Länder* still lack the will to devote sufficient urgency to the cross-cutting objectives of bureaucracy reduction and better regulation alongside their policy objectives.

One important result of the regular sharing of experience between the *Länder* is that the involvement of the regulatory review departments has been increased. Some *Länder* now use the Federal Government's methodology to determine compliance costs for internal purposes. Despite the differences between the *Länder*, reliable organizational structures and joint methodological principles support cross-level cooperation with the aim of minimizing the burden on citizens, businesses and public authorities. The Federal Government has therefore offered to step up this cooperation with the *Länder* and the Bundesrat.

### **Federal Employment Agency (BA)**

In its development programme "BA 2020", the BA resolved to continuously develop and improve its organization and services. Innovative services for clients and the restructuring of the BA are already supported by modern IT solutions.

One core project is the introduction of the eAkte or electronic file consisting of two components. The "digitization of BA paperwork" (DiBAS)

includes the digitization of incoming mail, the tagging of further details to better manage documents, the signing of digitized documents and quality assurance. The second part of the eAkte is the "Document Management System" (DMS), which enables public authorities to manage electronic files and documents. The DMS includes the assignment of responsibility, the import and export of files and documents, the management of files, documents and instructions, and the audit-proof storage of documents in a repository. The eAkte allows BA employees current, geographically independent access to files, and means that clients can benefit from the faster processing of their cases and the quick provision of information by easily reachable service centres.

The introduction of the eAkte in the SGB III field (Employment Agencies) was successfully completed in December 2012. Currently 26,585 employees are authorized to use the eAkte. Starting in May 2013, the eAkte will be piloted for child support, and is to be completely rolled out by the end of 2013, involving nearly 4,000 employees.

The BMAS has also approved the development of the existing eAkte basic service and is piloting the use of electronic files in various joint institutions. The BA is thus backing the development of forward-looking, modern, efficient management structures in its shared facilities and the even more professional delivery of its services covered by SGB II.

### **Federal Joint Committee (G-BA)**

Under the Law on the Stabilization and Structural Reform of the Statutory Health Insurance Act (GKV-WHT), since 1 September 2012 the Federal Joint Committee (G-BA) has been obliged to determine the expected administrative costs resulting from its decisions and to explain them clearly.

To estimate the administrative costs, the committees of the G-BA use the Standard Cost Model in accordance with Section 2(3) NKRK.

To support the committees in this task, the G-BA has set up an Administrative Cost Calculation Project Group – an independent organizational unit which answers directly to the management and began work in mid-2012. The primary objective during the introductory phase of the process for determining administrative costs on the G-BA is to ensure the consistent, appropriate application of the Standard Cost Model. The necessary methodology is currently being worked out by the G-BA's Administrative Cost Calculation Project Group, in which the NKR secretariat, the Federal Statistical Office and the Better Regulation Unit are also represented. To this end, the methodology used to calculate the administrative costs was explained by the Administrative Cost Calculation Project Group to the staff of the G-BA and the working groups preparing decisions. Judging by the initial experience, as resolutions are prepared, more importance will be attached to examining alternatives involving less red tape alongside the determination of the expected administrative costs.

### **German Social Accident Insurance**

The German Social Accident Insurance (DGUV) is still in talks with the Federal Government *Länder* Commercial Law Committee and the BMWi aimed at eliminating the obligation on business founders to register with the responsible accident insurer. This obligation can be dropped completely if the required information

on the company is collected under compulsory business registration pursuant to the Commercial Code. The necessary adjustment of the content of business registration notices is currently being discussed between the Federal Government and the *Länder* as part of the planned reform of the Commercial Code, which is expected to take place before the end of 2013.

The DGUV has been using the Business Registration Notice Electronic Data Exchange (EDA GWA) system since autumn 2012. Bavaria is the first *Land* to transmit business registration notices electronically to the DGUV using a standard put in place by the "Germany Online" working group of the IT Planning Council. The DGUV then forwards the notices to relevant accident insurance institutions, again without media conversion.

More *Länder* will join this process in 2013. This will bring about significant bureaucracy reductions among start-ups, business registration authorities, the DGUV (the distribution platform for business registration notices) and the competent accident insurance institutions while accelerating the process chain. Until all *Länder* and commercial authorities have joined, the registration notices submitted to the DGUV in the conventional manner (on paper, by email, on CD-ROM, etc.) will for the time being be scanned into the EDA GWA system. Consequently, the advantages of electronic allocation and forwarding are already being harnessed.

## D. International cooperation

### D.1 European Union

#### Further development of the Federal Government's EU ex ante procedure, "SME Monitor" for EU projects

Better regulation and bureaucracy reduction are key elements of improving the competitiveness of businesses and creating growth and jobs in Europe. Therefore, in its Better Regulation Work Programme dated 28 March 2012, the Federal Government undertook in particular to endeavour to bring about the systematic determination and presentation of the anticipated costs of regulatory proposals.

For this purpose, it decided on 17 December 2012 to expand its existing procedure for estimating the administrative costs of EU legislation (see the appendix, and for details on the original method see the 2007 Annual Report, pp. 93f.). Accordingly, using the information available to them, the ministries ascertain which of the legislative proposals announced in the European Commission's annual work programme will entail substantial compliance costs for businesses, citizens and public authorities. An overview of the projects expected to entail high compliance costs as well as those projects whose costs cannot yet be assessed will be sent to the Commission with a request to pay particular attention to ensuring accurate, plausible impact assessment and minimizing the compliance costs of regulations. The content of projects is not assessed at this stage. The Federal Government will monitor whether the Commission meets its request.

The Federal Government places special emphasis on medium-sized companies – the backbone of the German economy. According to the principle "Priority for SMEs", the Federal Government is also campaigning at a European level to ensure that all policies are SME-friendly. This is particularly supported by the establishment of the "SME Monitor for EU regulations" in the BMWi.<sup>3</sup> Since early 2011, SMEs and those supporting their interests have been made aware of SME-relevant EU regulations currently being debated by poli-

ticians in a monitoring list. This enables them to help shape forthcoming regulations, for example by taking part in the consultations held by the European Commission. The SME Monitor website highlights current consultations and provides assistance. In this way, SMEs can get involved in decision-making processes at the European level as early as possible.

#### Better regulation at EU level

For some years now, better regulation has been a separate policy sector with high priority for the institutions of the EU.

To augment its Smart Regulation agenda of 8 October 2010,<sup>4</sup> on 12 December 2012 the Commission submitted its Communication on EU Regulatory Fitness, in which it set out the future content of smart regulation at EU level.<sup>5</sup> The preparation of this communication was served by a public consultation, in which the Federal Government was also involved.

Based on the position paper "Better Regulation and Bureaucracy Reduction at the European Level after 2012 in the EU", which was adopted by the Federal Government in early 2012, the Federal Government called in its statement for the ambitious development of the Smart Regulation agenda and the reduction of bureaucracy at the level of the EU. It proposed that this was to be done in particular by increasing impact assessments and evaluations by EU institutions and targeted bureaucracy reduction with greater focus on compliance costs and the expansion of stakeholder consultation. In addition, the statement also called for the High Level Group of Independent Stakeholders on Administrative Burdens (the "Stoiber Group") to be closely involved in this work and for its mandate to be extended accordingly.

Important elements of the EC's communication reflect the Federal Government's statement. At

<sup>3</sup> <http://www.eu-mittelstandsmoitor.html>

<sup>4</sup> For details, see the Federal Government's annual report pursuant to Section 7 NKRK 2010, pp. 20–21.

<sup>5</sup> The communication (COM(2012) 746 final) has two annexes on the Review of the Commission Consultation Policy (SWD(2012) 422 final) and the results of the Action Programme for Reducing Administrative Burdens (SWD(2012) 423 final).

its heart is the integration and development of the various existing approaches under the new heading “EU Regulatory Fitness”. It also focuses on regulatory quality in certain policy sectors.

Under its “Regulatory Fitness and Performance Programme” (REFIT), the Commission plans to scrutinize selected areas of the law for their effectiveness, starting with regulations which are regarded as particularly burdensome for small and medium-sized enterprises. The overall objective is to develop a general evaluation framework which includes the designation of sectors with “significant potential” for the reduction of regulatory costs, if appropriate in conjunction with quantitative reduction targets or legal simplifications.

The Commission has announced that it will only examine new proposals in the regulatory areas concerned once mapping (the investigation of the relevant legal framework) and subsequent evaluation (during REFIT) are complete.

In addition, the Commission has submitted its ideas on the honing of the impact assessments, evaluations and consultations it carries out. In future, for example, impact assessments are to start with standardized two-page summaries, while a continuously updated “consultation calendar” is to be posted on the Internet. In addition, a revised framework for policy and programme evaluation will be put forward at some point during 2013 which examines how evaluation findings can be better integrated into the overall cycle of policy development.

On 13–14 December 2012, the European Council called for a rapid examination of the REFIT communication and welcomed “the proposals by the Commission to reduce regulatory burdens and scrap regulations that are no longer of use as part of its overall approach to ‘Smart Regulation.’” The Council also looked forward to concrete progress.

### **Bureaucracy reduction at EU level**

The Action Programme for Reducing Administrative Burdens initiated under the German Presidency in March 2007 has been the central

thrust of bureaucracy reduction at EU level in recent years. (For more information on the progress made, please see the Federal Government’s previous annual reports.) Like the Federal Government, the Commission also set itself the target of reducing the administrative costs of disclosure obligations by 25%, albeit by the end of 2012.

The potential reduction throughout the EU of all the proposals submitted was estimated by the Commission at €40 billion per year (according to Annex 2 of the REFIT Communication). Overall, the Council and the European Parliament have so far adopted seventy-two proposals for action, which the European Commission estimates could save administrative costs totalling €30.8 billion. This equates to a reduction of 25% on the original estimate of €123.8 billion.

Not all these measures have been implemented by all the Member States yet. Moreover, another eleven proposals are still under discussion.

To implement the measures agreed at EU level, the European Commission has announced a follow-up programme, to be known as Administrative Burden Reduction Programme Plus (“ABR Plus”). Under it, Member States are to report by the end of 2013 on the implementation of the measures decided in the ABR programme. The Federal Government has already responded. In particular, it has implemented the measure with the greatest nominal reduction potential – permitting electronic invoicing for purposes of input tax deduction for businesses under the Tax Simplification Act 2011 of 1 November 2011. This is expected to reduce administrative burdens throughout Germany by about €4 billion annually.

At EU level, too, the momentum achieved so far needs to be maintained and administrative burdens further reduced. The Council has repeatedly called for this in the past two years, declaring that apart from the administrative costs of disclosure obligations, attention must be paid to the entire overall regulatory burden.

Regarding the reduction of administrative burdens, since 2007 the Commission has been

advised by the High Level Group of Independent Stakeholders on Administrative Burdens (the “Stoiber Group”). On 5 December 2012, the group’s mandate was extended until 31 October 2014 – the end of the Commission’s current term.<sup>6</sup> The Stoiber Group will in future largely concentrate on cutting red tape for small and medium-sized enterprises and micro enterprises as well as on measures at the level of Member States to enable the unbureaucratic implementation of EU law, notably the simplification proposals tabled.

### **Impact assessment at EU level: Recent developments**

Impact assessments are a key instrument of better regulation as they help to make new law as effective and as little burdensome as possible. In line with its integrated approach involving examining all the relevant economic, social and environmental effects of an initiative and regularly reviewing alternative options, on 31 January 2012 the European Commission submitted its proposal for competitiveness proofing.<sup>7</sup> Its key elements are the study of the impact of new legislative proposals on pricing and international competitiveness and innovation capacity along with attention to SMEs. This review complements the Commission’s Impact Assessment Guidelines most recently updated in 2009.

Under the 2003 *Interinstitutional Agreement on Better Regulation*, the European Parliament and Council entered into a political commitment to carry out additional impact assessments of substantial changes to the Commission’s proposals.

The European Parliament met this commitment in 2012 by setting up its own impact assessment unit. Its mission includes reviewing the Commission’s impact assessments and evaluating them to support the meetings of the parliamentary committees.

Moreover, following significant proposed amendments to the Commission’s legislative proposals, reports are commissioned to estimate the associated impact.

Together with other Member States, in 2011 Germany repeatedly called for a separate unit to be set up in the Council Secretariat in order to carry out impact studies for the Council on significant changes to legislative proposals. Furthermore, on 5 December 2011 the Competitiveness Council reemphasized the Council’s commitment and emphasized the important role that had to be played by the Council’s General Secretariat. In addition, the Council requested a progress report, which was submitted on 21 November 2012 by the Cypriot Presidency.<sup>8</sup> The Irish Presidency took on board the findings and recommendations of the report and placed improving the execution of impact assessment on the political agenda of the Competitiveness Council.

The Federal Government will continue to work to ensure that the Council systematically studies the Commission’s impact assessments and makes the necessary arrangements to carry out its own impact assessments if necessary.

## **D.2 Organization for Economic Cooperation and Development**

In 2012, the Organization for Economic Cooperation and Development (OECD) dealt extensively with diverse aspects of good regulatory policy and better regulation. For example, in March 2012 it published its “Council Recommendation on Regulatory Policy and Governance” describing twelve essential aspects of good regulation. A key role was played by the reduction of administrative burdens, particularly the costs caused by regulation.

As part of its “Measuring Regulatory Performance” programme, which chiefly examined ways of assessing and measuring the impact of good regulatory policy, the Federal Government and the NKR invited the OECD to hold a workshop in Berlin. On 11 and 12 June 2012, seventy delegates from twenty-two states met up at the Federal Chancellery under the banner of “Re-Boosting Growth: Overcoming Challenges to Measuring and Reducing Compliance

<sup>6</sup> COM(2012) 8881 final.

<sup>7</sup> SEC(2012) 91 final.

<sup>8</sup> Report of the Presidency and Council Secretariat on Impact Assessment, doc. 16569/12.



Costs” to discuss various ways of measuring and reducing the compliance costs of regulations and how this can contribute to growth and employment. As a result of this workshop, the OECD is planning to draw up a corresponding recommendation in 2013.

### **D.3 International Regulatory Reform Conference**

On 31 January and 1 February 2013, 320 decision-makers from politics, business and ministries (including some ministers and secretaries of state) as well as experts from public authorities, research centres and civil society from a total of forty-four nations met up in Berlin for the 2013 International Regulatory Reform Conference (IRRC 2013).

Under the motto of “Accountability, transparency, participation: the basis for good governance”, they debated current trends, innovative methods and best-practice solutions for improving regulation and the application of the law. IRRC 2013 was hosted by the Federal Government in conjunction with the Organization for Economic Cooperation and Development (OECD), the Organization for International Cooperation (GIZ), the NKR, the Bertelsmann Foundation, the German Association of Chambers of Industry and Commerce (DIHK) and Members of the German Bundestag.

In the Federal Government’s view, IRRC 2013 showed once again that better regulation is an ongoing challenge which is being tackled with great dedication by more and more governments, agencies and international organizations

around the world. Despite all the differences, joint standards are becoming established in political practice, such as clarity regarding the impact of regulations, the early involvement of those affected, the sound institutional involvement of stakeholders, a critical review of regulatory alternatives, and a systematic appraisal of administrative structures and procedures.

Future challenges for better regulation remain finding a suitable balance with policy objectives in the many fields of action, and identifying effective ways of minimizing the burdens on the addressees of legislation and evaluating regulations. Other topics now on the agenda include the general comprehensibility of regulations and the growing need for consultation and political participation.

During four plenary sessions, Maroš Šefčovič (Vice-President of the European Commission), Malcolm Harbour (Chairman of the European Parliament Committee on the Internal Market and Consumer Protection) and Minister of State Eckart von Klaeden, as well as people such as Manana Kobakhidze (Deputy Speaker of the Georgian Parliament) and Thierry-Xavier Girardot (Deputy Secretary General of the French Government) set out their experience and expectations of better regulation. In a total of seventeen workshops, attention was paid to subjects such as the relationship between cross-cutting objectives of better regulation and policy objectives in areas such as financial market and energy market regulation, the growing importance of citizen participation and public consultations for the quality of law, and the work of governments and parliaments for better regulation.



# Annexes

## Annex 1

### Development of compliance costs (1 January – 31 December 2012\*) Balance of changes to annual regular compliance costs for businesses in €'000

(updated: 13 March 2013)

	Annual compliance costs for businesses			Of which administrative costs from disclosure obligations					
	Burden	Reduction	Balance	Excluding implementation of government paper		Balance		Reduction from implementation of government paper	Total
				Burden	Reduction	Burden	Reduction		
Federal Foreign Office									
Federal Ministry of the Interior	2,056	-48,535	-46,479	1,112	-37	1,075	-48,498	-47,423	
Federal Ministry of Justice	26,391	-75,728	-49,337	19,993	-39,761	-19,768	-517	-20,285	
Federal Ministry of Finance	205,894	-65,888	140,006	28,414	-674	27,740	-61,841	-34,101	
Federal Ministry of Economics and Technology	173,425	-6,002	167,423	86,424	-336	86,088	-3,386	82,702	
Federal Ministry of Labour and Social Affairs	27,872	-62,770	-34,898	34	-34		-62,576	-62,576	
Federal Ministry of Food, Agriculture and Consumer Protection	208,159	-669	207,490	6,732		6,732	-669	6,063	
Federal Ministry of Defence									
Federal Ministry of Family Affairs, Senior Citizens, Women and Youth		-109	-109				-109	-109	
Federal Ministry of Health	59,268	-806,059	-746,791	22,881	-44,876	-21,995	-420,054	-442,049	
Federal Ministry of Transport, Building and Urban Development	134,991	-6,664	128,327	2,225	-55	2,170	-6,609	-4,439	
Federal Ministry for Environment, Nature Conservation and Nuclear	161,004	-27,195	133,809	11,970		11,970	-26,700	-14,730	
Federal Ministry of Education and Research		-2,046	-2,046				-2,046	-2,046	
Federal Ministry of Economic Cooperation and Development									
The Commissioner of the Federal Government for Culture and Media	175	-5	170	75	-114	-39	-5	-44	
<b>Total</b>	<b>999,235</b>	<b>-1,101,670</b>	<b>-102,435</b>	<b>179,860</b>	<b>-85,887</b>	<b>93,973</b>	<b>-633,010</b>	<b>-539,037</b>	

\* Includes projects dealt with by the Federal Cabinet between 1 January and 31 December 2012 and legislative proposals adopted in 2012 which did not have to be submitted to the Cabinet (e.g. ministerial decrees).

**Development of compliance costs (1 January – 31 December 2012\*)**  
**Balance of changes to annual regular compliance costs for citizens and public authorities**

Source: Federal Statistical Office  
 Correct as of 13 March 2013

	Annual compliance costs for citizens						Annual compliance costs for public authorities			
	Time (hours)			Costs in €'000			€'000			
	Burden	Reduction	Balance	Burden	Reduction	Balance	Burden	Reduction	Balance	
Federal Foreign Office										
Federal Ministry of the Interior	485,138	-10,980,000	-10,494,862		-36,700	-36,700	24,078	-11,304	12,774	
Federal Ministry of Justice	10	-41,880	-41,870	897	-55	842	2,454	-572	1,882	
Federal Ministry of Finance	35,000		35,000				12,568	-1,325	11,243	
Federal Ministry of Economics and Technology	26		26				23,048	-133	22,915	
Federal Ministry of Labour and Social Affairs	1,866,667		1,866,667				6,487	-14,000	-7,513	
Federal Ministry of Food, Agriculture and Consumer Protection							25,229		25,229	
Federal Ministry of Defence							317		317	
Federal Ministry of Family Affairs, Senior Citizens, Women and Youth	550,000		550,000	1,100		1,100	16,200		16,200	
Federal Ministry of Health	30,000	-833	29,167	100	-93	7	134,171	-35,878	98,293	
Federal Ministry of Transport, Building and Urban Development	132,019	-546,943	-414,924	20,100	-4,400	15,700	10,694	-705	9,989	
Federal Ministry for Environment, Nature Conservation and Nuclear Safety							15,280		15,280	
Federal Ministry of Education and Research										
Federal Ministry of Economic Cooperation and Development										
The Commissioner of the Federal Government for Culture and Media							216	-86	130	
<b>Total</b>	<b>3,098,860</b>	<b>-11,569,656</b>	<b>-8,470,796</b>	<b>22,197</b>	<b>-41,248</b>	<b>-19,051</b>	<b>270,742</b>	<b>-64,003</b>	<b>206,739</b>	

\* Includes projects dealt with by the Federal Cabinet between 1 January and 31 December 2012 and legislative proposals adopted in 2012 which did not have to be submitted to the Cabinet (e.g. ministerial decrees).

Source: Federal Statistical Office  
Correct as of 13 March 2013

Development of compliance costs (1 January – 31 December 2012\*)  
One-off conversion costs for citizens, businesses and public authorities

	Conversion costs for citizens		Conversion costs for businesses	Conversion costs for public authorities
	Hours	€'000		
Federal Foreign Office				€'000
Federal Ministry of the Interior				689,857
Federal Ministry of Justice			18,662	21,946
Federal Ministry of Finance			510,268	13,189
Federal Ministry of Economics and Technology			243,467	1,809
Federal Ministry of Labour and Social Affairs			37,640	26,641
Federal Ministry of Food, Agriculture and Consumer Protection			14	789
Federal Ministry of Defence				62
Federal Ministry of Family Affairs, Senior Citizens, Women and Youth			12	202
Federal Ministry of Health	6,350	20	11,037	22,652
Federal Ministry of Transport, Building and Urban Development	9,671,666	5,345	18,948	17,031
Federal Ministry for Environment, Nature Conservation and Nuclear Safety			1,386,799	25
Federal Ministry of Education and Research				
Federal Ministry of Economic Cooperation and Development				
The Commissioner of the Federal Government for Culture and Media				120
<b>Total</b>	<b>9,678,016</b>	<b>5,365</b>	<b>2,226,847</b>	<b>794,324</b>

\* Includes projects dealt with by the Federal Cabinet between 1 January and 31 December 2012 and legislative proposals adopted in 2012 which did not have to be submitted to the Cabinet (e.g. ministerial decrees).

# Appendix

## Cabinet decision of 28 March 2012

### Better Regulation Work Programme

#### I.

The Federal Government's Programme for Bureaucracy Reduction and Better Regulation substantially reduced administrative expenditure in Germany and contributed to a greater awareness of the resulting costs whenever new legislation was drafted. The Federal Government remains aware of its obligation to keep the costs of compliance with federal law for citizens, businesses and public authorities at a permanently low level. Apart from a minimized burden on addressees of legislation, other important characteristics of good regulation include transparency, comprehensibility and early involvement at both national and EU level. Paying attention to these characteristics increases the quality of federal legislation and makes an important contribution to social acceptance of the law.

#### II.

In pursuit of these objectives, the Federal Government hereby adopts the following work programme:

1. Compliance costs shall be examined in particular in the following areas of life and legislation with the objective of the greatest possible reduction:
  - a. Optimizing reporting procedures in social security
  - b. Reducing the application and processing burden in connection with tax and social security benefits
  - c. Streamlining electronic invoices between businesses and public authorities
  - d. Non-profit activity in various legal organizational forms and voluntary work
  - e. Implementing the education and participation package (in connection with the

project initiatives already initiated by the BMAS)

- f. Electronic certification and charging procedures in the shipping industry
2. In addition, working in conjunction with business associations, with the support of the NKR, and with the involvement of the competent authorities, the Federal Government will endeavour to bring about simplifications by reviewing procedures in the following areas:
  - a. Business start-ups: From the business idea until initial revenue, e.g. based on one or more sectors
  - b. Employment of workers: Standardization and needs-based issuance of certificates of employment
  - c. Cross-border movement of goods (including within the EU): Cooperation with various authorities
  - d. Taxation: From self-assessment tax returns to payment of taxes
  - e. Accounting: Contemporary organization of electronic accounting procedures

The projects in paragraphs 1 and 2 shall be carried out such that the initial results are available in spring 2013. The Federal Government shall then use the results to formulate further reduction targets for the total measured compliance costs.

3. The Federal Government shall introduce a procedure under which after major legislative proposals have come into effect, the ministries shall within a reasonable period systematically review whether and to what extent the burden determined when they were passed has proved in retrospect to be correct. The goal is to keep compliance costs permanently low on this basis. The details of this procedure are to be finalized by the end

of Q3 2012, after which initial pilot projects will be carried out.

4. Changes to businesses' administrative costs will in future be indicated by the Federal Statistical Office by means of an index based on updated data ("Bureaucracy Cost Index", BKI). If required, in autumn 2012 the Federal Government will take additional action to keep administrative costs permanently low.
5. The preparation of draft legislation is to be further modernized. For this purpose, the existing guidelines, principles of work and support services are to be coordinated. The ministries are to be provided with an electronic support system to help them prepare new regulations in order to bring about a uniform, continuous organizational and technical process from the first draft until the promulgation of a regulation. We also want to consider introducing the lean, seamless execution of electronic administrative procedures.
6. The Federal Government shall assess the usefulness and legal feasibility of a Disclosure Obligation Guide containing information about what disclosure obligations exist and the legal regulations on which they are based. This could help avoid additional bureaucracy brought about by requesting existing data. For this purpose, the Federal Government will with the involvement of the Federal Commissioner for Data Protection and Freedom of Information (BfDI) examine by spring 2013 whether this project can be performed in accordance with the existing data protection legislation and who should carry it out as well as whether a separate legal basis is required. Taxation and social security confidentiality will be respected.
7. Legislative proposals by the Federal Government will, once they have been adopted by the Cabinet, be published electronically. As soon as the central access platform for open government planned for 2013 has been set up, these legislative proposals are to be posted there. Furthermore, in appropriate cases, the Federal Government plans to expand the information and also public consultation prior to decisions taken by the Cabinet beyond the existing stakeholder involvement.
8. *Länder, local authorities and other self-governing institutions are invited to deepen cooperation with the Federal Government in better regulation and to better network information about relevant legislation. The connections between the law of the EU, the Federal Government, Länder and other self-governing institutions are to be made clearer in future. Findings from the examination of the administrative costs may also provide pointers for performance comparisons as defined by Article 91d of the Basic Law.*
9. *The Federal Government will also endeavour to bring about the systematic determination and presentation of the anticipated costs of regulatory proposals at EU level. In the national implementation of EU law, exchange with other Member States on best practice will be stepped up, particularly in order to identify and consistently avoid impending competitive disadvantages for businesses in Germany.*

# Strategy for the evaluation of new legislative proposals under Section II.3 of the Federal Government's Better Regulation Work Programme of 28 March 2012

An evaluation establishes a relationship between the object and purpose of a regulation and the effects actually achieved as well as the associated costs. It is to be carried out for all major legislative proposals in accordance with the guidelines below.

## I. In what cases are evaluations carried out?

The significance of a legislative proposal as defined by the Better Regulation Work Programme is normally measured by the level of the expected annual compliance costs (threshold). This reflects the fact that an evaluation should also contribute to keeping compliance costs permanently low.

Draft legislation whose annual compliance costs are estimated in the ex ante assessment to be at least (or for which the following costs cannot be ruled out, even though their annual compliance costs cannot be estimated):

- €1 million or 100,000 hours for citizens, or
- €1 million for businesses, or
- €1 million for public authorities

An evaluation may also be prompted by the reassessment of compliance costs concluding that the actual costs exceed one of the thresholds. If the reassessment finds the actual costs to fall short of the threshold, the ministry may review the evaluation considerations in its draft.

Apart from the level of annual compliance costs, the ministries (as was already the case) can also have an evaluation carried out for other reasons such as high total financial outlay, special political significance or great uncertainty regarding effects or administrative processes.

## *Proportionality*

The costs of an evaluation must not be disproportionate to the findings to be gained from it. This applies for example regarding:

Judicial decisions or international or EU standards with no scope for alternative implementation;

Otherwise comparable reporting requirements (including to or by international and EU institutions) or a statutory mandatory impact assessment which is a permanent task.

All major legislative proposals are to include information on the performance (or non-performance) of an evaluation in the explanatory memorandum under Section 44(7) Joint Rules of Procedure of the Federal Ministries (GGO).

## II. What is evaluated?

The main evaluation criterion is the progress made in achieving the objectives, since regulations which fall short of the goal formulated in the draft usually cause unnecessary compliance costs.

- Depending on the scope of the evaluation, other possible criteria include:
- The side-effects of a regulation (positive or negative);
- The take-up of a regulation (e.g. claiming of state services);
- The practicality of a regulation, which should be examined in terms of avoidable compliance costs (e.g. bundling of tasks at the executing authority);



- Considerations of whether the costs are proportionate to the results. This need not necessarily be a monetary consideration, but can also take the form of weighing up the advantages and disadvantages of a regulation. Political decisions should not be anticipated.

### III. How does evaluation take place?

An evaluation is not predetermined in terms of its depth (e.g. legislative proposals as a whole, parts of a framework law, some areas of an original act, enforcement), methodology (ranging from an internal to a scientific evaluation) or size (from a two-page report to a detailed report, also depending on the available resources). These decisions are up to the lead department. An evaluation may be based on the results of the reassessment of the compliance costs by the Federal Statistical Office.

The results are to be documented by means of an evaluation report containing information defining the subject of study, the underlying

data and assumptions, and the relevant criteria. The report should present the main findings of the evaluation clearly.

These reports are to be submitted to the ministries concerned as well as the Federal Government Coordinator for Bureaucracy Reduction and Better Regulation and the National Regulatory Control Council.

### IV. When does evaluation take place?

The time of evaluation is to be decided by the lead ministry at its discretion.

When choosing a suitable time, the expected onset of effects and any other changes to the regulatory environment are to be taken into account. Evaluation should as a rule take place between three and five years after a legislative proposal has come into force.

This procedure is to be applied to legislative proposals undergoing interministerial coordination from 1 March 2013.

# Enhancing the EU ex ante procedure

## Decision by the Secretaries of State for European Affairs of 17 December 2012 to supplement the guidelines for the assessment of administrative costs

### I. Background and objectives

As the European Commission emphasizes in its Impact Assessment Guidelines, “impact assessment is a key tool to ensure that Commission initiatives and EU legislation are prepared on the basis of transparent, comprehensive and balanced evidence.”<sup>1</sup> The objective is to make new legislation as effective as possible and as little burdensome as possible. Accordingly, impact assessment is a key element of better regulation.

This requires impact assessment being carried out comprehensively and the considerations and calculations behind the results being shown transparently. However, this is not always the case, especially for cost implications. The Impact Assessment Board (IAB), which has been operating for nearly five years within the Commission to ensure the quality of impact assessments, criticized in its 2011 annual report the lack of or inadequate quantification of administrative costs in about a third of all impact assessments submitted in 2011. The figure was also about 30% in 2010, yet just under 20% in 2009.

Accordingly, applying the **Guidelines for estimating administrative costs in EU legislation**, which were adopted in 2007 by the Committee of the Secretaries of State for European Affairs and supplemented by the heads of departments of European affairs in 2009 (“ex ante procedure”; see annex for resolutions), remains of key importance. The guidelines stipulate that the lead ministry should check whether the Commission has carried out a plausible, comprehensible administrative cost estimate in its impact assessment of a proposal. If it has not, or has done so inadequately, the proper performance of this impact assessment is to be expressly demanded in the Council committees and the

lead ministry should if necessary estimate the administrative costs itself that will apply to Germany depending on the possibilities available to it. Furthermore, the results of the review, to be conducted with the involvement of the National Regulatory Control Council (NKR), are to be included in the “comprehensive review” used by the Federal Government to notify the Bundestag and Bundesrat.

The focus of this method lies on the time of the negotiations in the competent Council committees, i.e. on the stage when a legislative proposal is brought in by the Commission. However, crucial decisions are already taken during the design and development of a legislative proposal, especially with regard to the cost implications.

Therefore, the procedural proposal below aims at making greater use of the Federal Government’s influence during the preparation of the Commission’s draft, i.e. before legislation has been adopted by the Commission. The existing EU ex ante procedure needs to be supplemented and systematized in this respect. The starting points here include the roadmaps<sup>2</sup> well as the Commission’s annual work programme. In line with the expansion of the Federal Government’s Programme for Bureaucracy Reduction and Better Regulation, the compliance costs (whenever they can be estimated using the options available to the ministries on the basis of the information available about the Commission’s announced draft) alongside the administrative costs calculated using the Standard Cost Model should also be taken into account, at least qualitatively.

### II. Proposal for enhancing the EU ex ante procedure

<sup>2</sup> The roadmaps published since 2007 by the Commission are brief descriptions of planned regulatory projects including their main content and timetable until adoption by the Commission. Although the roadmaps sometimes contain a rough estimate of the associated costs, they are frequently restricted to a qualitative description of the proposal’s impact. The roadmaps are all posted on the website of the Secretariat-General ([http://ec.europa.eu/governance/impact/planned\\_ia/planned\\_ia\\_en.htm](http://ec.europa.eu/governance/impact/planned_ia/planned_ia_en.htm)). They are posted one after the other following the submission of the Commission’s work programmes.

<sup>1</sup> European Commission, Impact Assessment Guidelines.

A. In future, greater use is to be made of the EU ex ante procedure before decisions are taken by the Commission:

1. When roadmaps on legislative proposals by the Commission are published, the ministries should examine whether the planned regulation is expected to impose a significant regulatory burden on businesses, citizens or public authorities in Germany. Should this be the case, the ministries should call for the Commission to carry out an impact assessment in line with its internal Impact Assessment Guidelines in which in particular the costs are determined and presented in a comprehensible manner. Any (ex post) assessments (evaluations, fitness tests) on the act or area of law are to be included in this examination.
  2. When the Federal Government's statement on the Commission's annual work programme is being drafted, the ministries should by working on the basis of the information available to them assess the extent to which the concrete legislative proposals announced in the work programme are expected to entail a significant burden on businesses, citizens or public authorities. On demand from the BMWi, the responsible ministries are to assess the likely impact of these projects on Germany as high or low. A short explanation is to be provided of why projects with high anticipated regulatory burdens have been classified as such. If in individual cases the impact of a project cannot yet be assessed by the ministry, the project is not to be classified; this too should be explained. Any (ex post) assessments (evaluations, fitness tests) on the act or area of law are to be included in this examination.
  3. The ministries shall submit the list of classified projects to the BMWi, which will compile a general overview. The NKR is to be given an opportunity to respond to the assessment of the estimated burdens in accordance with its mandate (Section 1(3-4), NKR-G).
  4. The overview of projects with high expected burdens and those whose costs cannot be estimated is to be submitted to the Secretariat-General of the European Commission by the BMWi with the request to pay particular attention to ensuring accurate, plausible impact assessment and minimizing the compliance costs of the regulation reflecting the integrated approach. The content of projects is not to be assessed at this stage.
  5. The competent ministries shall on request inform the NKR in connection with its statutory duties (Section 4(1), no. 4 NKR-G) of the state of proceedings.
- B. At the stage of negotiations in the Council (following the decision by the Commission), the existing EU ex ante procedure should be continued in accordance with the guidelines for estimating the administrative costs of EU legislation with the following additions:
1. In order to produce regulations with minimized burdens, once a legislative proposal has been brought in, the lead ministry should check whether the Commission has complied with the request specified in II.A.4. If it has not, the ministry should call in the Council committees (Council working groups, COREPER) for the belated performance of an impact assessment (pursuant to Section 3 of the Guidelines of the European Secretaries of State for European Affairs dated 8 October 2007).
  2. The ministries shall notify the BMWi of the results of the examination specified under II.B.1, which are to be included in the synopsis drawn up by the BMWi and coordinated with the ministries (pursuant to paragraphs 3 and 4 of the Decision of the Heads of Departments of European Affairs dated 30 April 2009).
  3. At the beginning of the negotiations in the Council committees, the lead ministry should endeavour to ensure that information on compliance costs is submitted to the Commission. Moreover, the lead ministry should include the existing estimates on the

likely impact as well as the expected compliance costs for Germany in its negotiating position.

In the event of the European Commission's impact assessment system being developed into a systematic, methodical examination of compliance costs, the existing EU ex ante procedure should be modified accordingly (by a decision taken by the heads of departments of European affairs).

The enhanced EU ex ante approach is to be evaluated at the end of 2014.

It shall apply from 1 January 2013 to the legislative proposals listed in the Commission's 2013 work programme, provided they have not been tabled as regulatory proposals by this time by the Commission.

