



Nationaler
Normenkontrollrat

Better Regulation

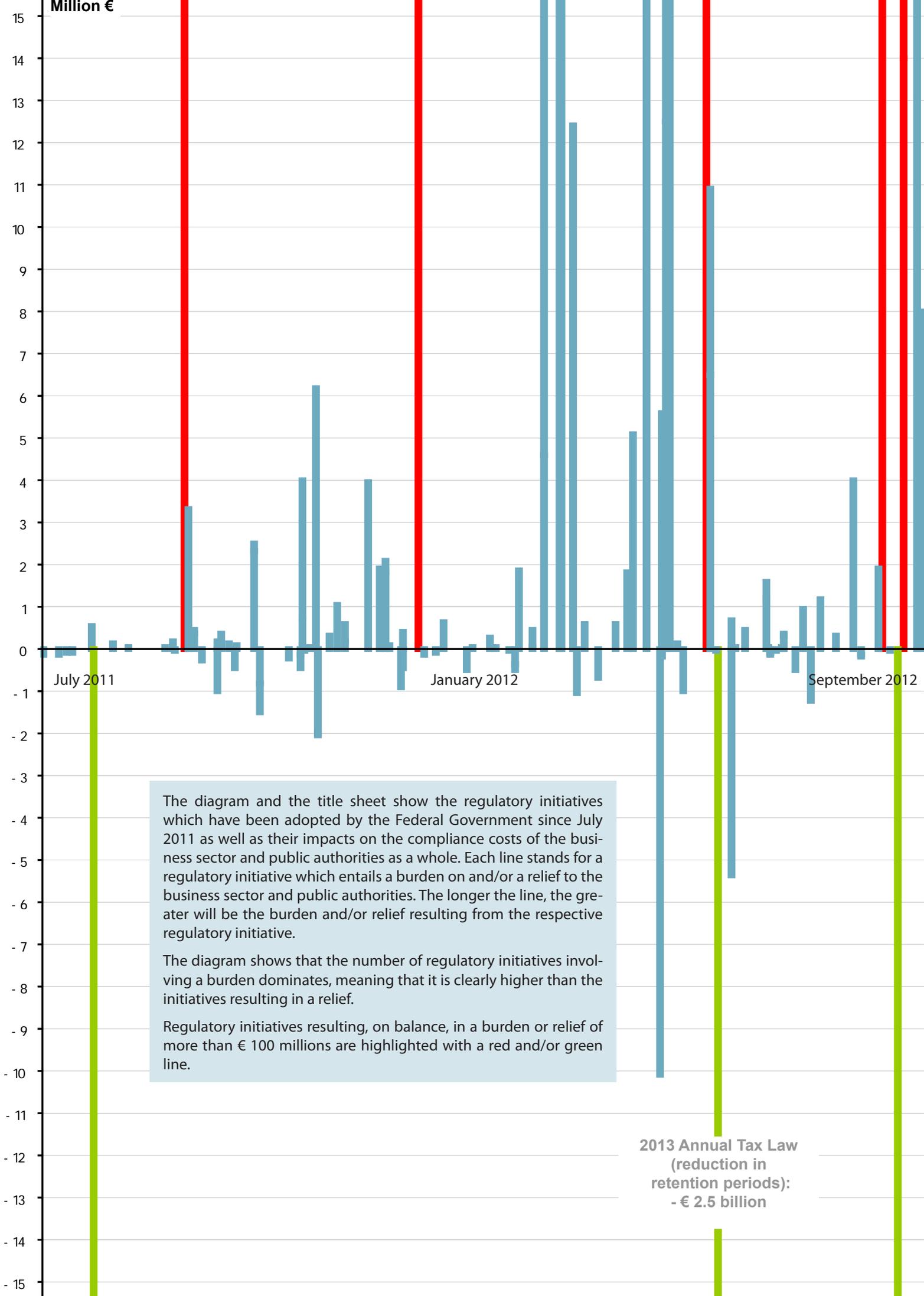
Providing Appreciable Relief to the Citizens, the Business Sector and Public Authorities

2012 Annual Report
of the Nationaler
Normenkontrollrat
October 2012

2012 Annual Report of the NKR
pursuant to Section 6 (2)
of the Act on the Establishment
of a National Regulatory
Control Council

October 2012

Million €



July 2011

January 2012

September 2012

The diagram and the title sheet show the regulatory initiatives which have been adopted by the Federal Government since July 2011 as well as their impacts on the compliance costs of the business sector and public authorities as a whole. Each line stands for a regulatory initiative which entails a burden on and/or a relief to the business sector and public authorities. The longer the line, the greater will be the burden and/or relief resulting from the respective regulatory initiative.

The diagram shows that the number of regulatory initiatives involving a burden dominates, meaning that it is clearly higher than the initiatives resulting in a relief.

Regulatory initiatives resulting, on balance, in a burden or relief of more than € 100 millions are highlighted with a red and/or green line.

2013 Annual Tax Law
(reduction in retention periods):
- € 2.5 billion

Key Messages

- » For well over a year now, there has been an obligation to indicate **compliance costs**, that is, all follow-up costs generated by a law, in the respective draft regulation. This will set new **standards for transparency** in preparing legislative decisions, also by international comparison.
 - » The National Regulatory Control Council (Nationaler Normenkontrollrat, NKR) observes, however, that the **commitment** of the individual ministries to reduce and avoid bureaucracy and compliance costs has discernibly **lost momentum**. This is certainly due to the fact that, following the initial motivating success, it is, of course, harder to achieve further progress. But at the same time, with major recent achievements of the government, such as the simplification of electronic invoicing and the adoption of the eGovernment Act, **the NKR is quite confident that good chances for a reduction in bureaucracy and costs continue to exist**.
 - » The compliance costs in their entirety have clearly decreased over the past twelve months. However, this is mainly attributable to a single measure. If that measure had not been taken, a steady increase would have been observed on balance. Thus, there are numerous indications of a **trend towards increasing follow-up costs**. Additional efforts to limit the increase in compliance costs are therefore indispensable.
 - » According to previous experience, the additional compliance costs will, on the whole, burden **first of all the business sector, secondly the public authorities** and to a lesser extent the citizens. The most important burden and relief measures are listed in the annex.
 - » The **stipulation of political objectives** for a reduction and/or limitation of compliance costs proves to be difficult because the total costs resulting from existing laws are not known and cannot be ascertained without disproportionate efforts. For this reason, the NKR is currently discussing possibilities with the Federal Government as to how **important laws can be systematically evaluated ex post as far as the achievement of objectives and financial consequences are concerned** in order to ensure an effective legislation in the long term.
 - » As the NKR has demonstrated by the example of the projects "Federal Training Assistance Act" (BAföG) and "Optimising Entry", the burden can also be reduced by means of **cross-level ex-post projects**. They investigate the compliance costs in a clearly defined area of the law, involving agencies not only at the Federal level, but also at the state and municipal levels. In this context, the NKR is hoping for a **more active commitment on the part of the Federal ministries, the business sector and its associations**. It will be possible to achieve more in this field, provided that good projects are proposed and their realisation is actively supported.
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- » As a tool for an effective reduction in bureaucracy, **eGovernment** is indispensable. For instance, considerable cost reductions were achieved by using digital information technology. **Yet, Germany remains well below its potential in this important field as yet.** In this regard, the eGovernment Act adopted by the Federal Government in September 2012 might pave the way for a **reduction of bureaucracy and costs on a broad front.** Now it is important that, following the adoption of the act by the Bundestag, a standardised IT concept will be resolutely implemented through a central coordination of ministries and authorities by the Federal Government. **A close coordination with the Federal states** is imperative in this context.
 - » In their capacity as leading “law-enforcers”, the **Federal states and the municipalities** can often be much more realistic than the Federal authorities when it comes to estimating their compliance costs resulting from new regulatory initiatives. Therefore, their **active assistance** in estimating the compliance costs is indispensable. This is also in their own interest in order to ensure that their implementation costs are taken into consideration. Nevertheless, it should be pointed out that **the commitment of the Federal states and the municipalities with regard to compliance costs has been rather limited so far.**
 - » In 2006, the Federal Government had set itself the target of reducing the **bureaucratic burdens incumbent on the business sector**, i.e. the costs resulting from information obligations, by 25 per cent by the end of 2011. Up to date, the respective action programme has **resulted in a reduction amounting to € 11 billion** (approx. 22.5 per cent), which is a success to be proud of, both in the opinion of the NKR and by international comparison. The important thing now is to conduct further reduction measures amounting to € 1.4 billion in order to achieve that target. That level should then be kept or, if possible, be lowered even further. The agreed **index of bureaucracy costs** will ensure the transparency needed for this purpose.
 - » Approximately half of the regulations applicable in Germany are directly applicable **EU law** and/or based on legal provisions initiated by Brussels. Thus, better regulation in Germany alone is only half the way. Taking that into account, the **efforts of the Federal Government** to exert influence on the preparation of provisions under EU law in Brussels as early as possible **are insufficient.** At present, the NKR is discussing changes to the procedures with the Federal Government in order to be able to achieve drastic improvements before the end of the year.
 - » What matters is that the **mandate of the so-called Stoiber Team** will be expanded no later than after the next elections to the European Parliament in June 2014, and that the regulatory proposals of the EU Commission will thus be accompanied by an independent body - analogous to the NKR and similar institutions in Great Britain, Sweden, the Netherlands and the Czech Republic.
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Foreword

“Quality through transparency” – this guiding principle of the last Annual Report published by the NKR has inspired and driven the work of the past twelve months. In this process, the NKR and the Federal Government were and still are aware of the fact that these efforts must lead to tangible results, i.e. they must “provide appreciable relief to the citizens, the business sector and public authorities”.

It should be noted that, on the whole, a substantial relief was achieved in the past months, essentially, however, through a single measure still being discussed by parliament at present – the reduction of the periods for which bills need to be retained in enterprises. Without that measure, the exact opposite would be the case – costs would steadily increase owing to a large number of legislative projects. This trend of constantly increasing follow-up costs is alarming and must be countered.

It might, for instance, help to systematically evaluate important laws three to five years after their entry into force for the achievement of their objectives and follow-up costs. The same applies to the use of modern information technology where it is crucial for the Federal Government to resolutely implement a standardised IT concept. It is just as important that the Federal states and the municipalities finally realise that, in their capacity as “enforcers” of laws, they are not unconcerned spectators but are required to make contributions as active players when it comes to dealing with compliance costs.

Brussels also needs to take action. The Federal Government must try to influence the preparation of proposals made by the EU Commission earlier and more systematically than before. At the same time, the transparency and openness of the procedures applied by the Commission in preparing new legislative initiatives remain well behind the standards deemed necessary in Germany. In this regard, a deeper involvement of the independent “Stoiber team” in the preparatory work done by the EU Commission can lead to tangible improvements.

With the step from bureaucracy costs toward the holistic consideration of all follow-up costs, the legislator now has substantially more transparency as far as the consequences of his decisions are concerned. The important thing now is that this new transparency takes practical effect. The reduction of bureaucracy and costs achieved so far justifies the expectation that a further relief is possible. It can work, provided all actors in politics, the business sector and public authorities see themselves as active players, and nobody sees himself as a spectator any more.

Berlin, 10 October 2012



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(Chairman)



Wolf-Michael Catenhusen
(Deputy Chairman)



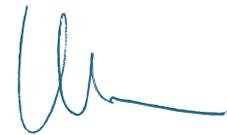
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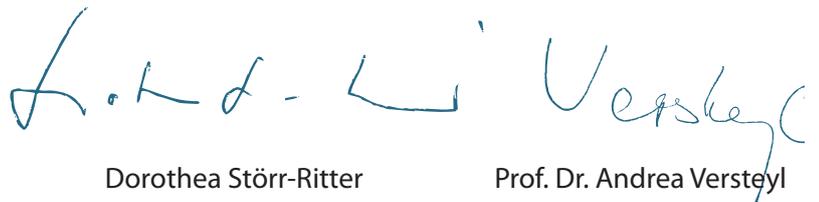
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I Summary of the Assessment and Recommendations

1. Identification of compliance costs, and new mandate of the National Regulatory Control Council

The March 2011 revision of the Act on the Establishment of a National Regulatory Control Council (*NKRG*) has imposed the requirement that the draft regulations of the Federal Government should identify the compliance costs. The term compliance costs embraces, in their entirety, the measurable time and costs incurred by the citizens, the business sector and public authorities through compliance with a provision under Federal law, excluding direct payments such as taxes.

Accordingly, the above requirement has **substantially added to the responsibilities of the National Regulatory Control Council (NKR)**. The review conducted by the Council is no longer confined to identifying the costs of bureaucracy resulting from information obligations but now encompasses the **presentation of compliance costs in their entirety**. That is to say that the Council takes a comprehensive look at whether the follow-up costs generated by new draft regulations are presented in a comprehensible and methodologically correct manner. The review conducted by the NKR aims to ensure that those taking decisions on a draft regulation are provided with a solid basis for their decisions.

The NKR welcomes the fact that, besides the costs of bureaucracy, the compliance costs are now being looked into in their entirety. The focus on the costs of bureaucracy turned out to be too limiting in the end because essential costs were often left out of the equation prior to the revision of the *NKRG*. So, for instance, in the case of a legal obligation to reduce industrial emissions it would have been sufficient prior to the revision of this Act to identify the costs of transmitting the emission figures measured to the competent authority (information obligation), and the requirement would not have encompassed an identification of the costs of modifying the industrial plant to reduce emissions, notwithstanding the fact that these latter costs are likely to considerably exceed the former. The inclusion of compliance costs has removed this limitation. It is to be welcomed that both the burden on public authorities and that on the citizens are now being considered as well. Also, the exploration by the National Regulatory Control Council of the possibility for a time limit on draft regulations and a one-to-one transposition of EU legislation [into national laws] will substantially contribute to better regulation.

However, one should bear in mind that the NKRG does not prescribe the manner in which the benefits of a regulation are to be presented. Consequently, a quantitative presentation of such benefits is not mandatory. That is because quantifying the benefits of a regulation is sometimes far more difficult than quantifying the compliance costs. So, for instance, it is difficult to express in figures the benefits of a regulation aimed at improving air quality. This is also true for regulations aimed at improving health or saving lives. Notwithstanding these problems, the NKR encourages the ministries to quantify the benefits of their draft regulations wherever possible.

Experience has shown that presenting the compliance costs is a far more complex matter than presenting the costs of bureaucracy. This additional effort is justified by the fact that it will substantially enhance the cost transparency of draft regulations. Transparency through quantification will no longer be confined to the costs for the public budgets and the costs of bureaucracy but will extend to all impacts on the citizens, the business sector and public authorities. In this way, then, the effects of a draft regulation are set out in such a comprehensive manner for the decision makers as to enable them to weigh up all relevant aspects.

2. Development of compliance costs since July 2011

In the light of the developments in recent months, it should be noted that the business sector is bearing the main brunt of compliance costs. While it is true that the **business sector as a whole** has enjoyed a **relief of some € 1.5 billion**, this relief is **mainly attributable to a single measure**, i.e. **the reduction of retention periods under fiscal and commercial law**. If this measure had not been taken, the compliance costs of the business sector would have (continuously) increased by almost € 1 billion since mid-2011. There are significant indications that this trend will continue in the future. The situation is similar for **public authorities** which, as a whole, have to shoulder a **burden of some € 80 million**.

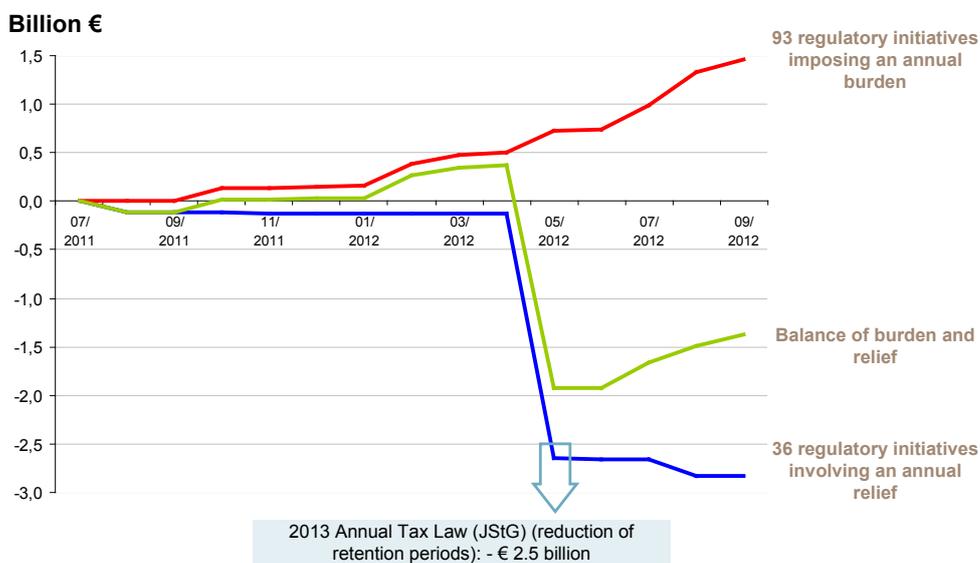


Fig. 1: Development of the compliance costs of the business sector and public authorities as a whole since 1 July 2011

The compliance costs of the citizens have so far been comparatively minor. However, in this case – as in that of the business sector – one should bear in mind that, per definitionem, burdens imposed as part of compliance costs such as fees¹ levied for services rendered by public authorities, or burdens resulting from rising prices are not taken into account. Thus there are additional costs arising from initiatives of the legislative or regulatory authority that are not portrayed as part of the compliance costs. This is because it is very hard to link costs such as those accruing from rising prices to a specific regulatory initiative, which means that a plausible quantitative identification of such costs in the individual regulatory initiative often turns out to be impossible. All the same, price adjustments deriving from applicable legislation may impose considerable costs on the citizens or the business sector.

3. Federal Government projects for reducing compliance costs

The October 2009 coalition agreement concluded between the conservative parties CDU/CSU and the liberal party FDP stipulated that compliance costs were to be looked into in eight areas including planning and building law for infrastructure projects and the appointment of corporate commissioners. The purpose of these projects was to ascertain possible simplifications so as to reduce compliance costs by 25 per cent in the above areas.

There are significant differences in the level to which the various projects have been implemented. One of the projects, which is to examine applications for statutory benefits for families and single parents, is still in its infancy three years (!) after the relevant decision was adopted, whereas in the case of other projects final reports have already been submitted.

The **project on retention periods under fiscal and commercial law** carried out under the direction of the Federal Ministry of Finance is to be **welcomed**. The issues raised were dealt with in a very timely manner, and specific quantified simplifications were developed. The project report was an important basis for the Federal Government's objective in late 2011 concerning the reduction to five years of retention periods under fiscal and commercial law. The Federal Government envisages in its 2013 Annual Tax Law (JStG) that retention periods should be reduced to eight years as from 2013 and to seven years as from 2015. The NKR welcomes this initiative. However, the Council assumes that the measure laid down in the 2013 Annual Tax Law is a first step and that the Federal Government will maintain its objective of December 2011.

Regardless of the fact that the projects have yielded some very promising results, the current level of implementation indicates that the original **objective of reducing the compliance costs by 25 per cent in the eight areas was probably overly optimistic**. In the opinion of the NKR, this is partly due to the choice of the areas to be examined as well as to the fact that the experience so far gained with compliance costs is limited. Nevertheless, the NKR welcomes the conduct of such examinations by the Federal Government as they permit specific experience

1 See Chapter II.

to be obtained with compliance costs in the relevant areas of politics and the law and simplification measures to be developed for their reduction.

Based on this rationale, the Federal Government, in its new “Work Programme on Better Regulation”, decided to look into additional areas such as reporting methods for employers in the social security scheme and invoicing between the business sector and public authorities. On that basis, “another demanding reduction target” is to be set “for compliance costs as measured in their entirety”.

The new form of cooperation initiated as part of the work programme between the trade associations and the ministries with the participation of the Better Regulation Unit and the NKR is welcomed. Nevertheless, it should be pointed out that, as yet, no further project ideas for identifying and reducing compliance costs have been submitted in the joint working groups. This is a disappointment. In this connection, the NKR calls upon all players – the Federal Ministries as well as the business sector and its associations – to take a more resolute and ambitious approach!

4. Reduction target for cutting compliance costs and a standardised evaluation of the legislation in force

Unlike for the bureaucracy costs deriving from information obligations, an **overarching quantitative reduction target for cutting compliance costs does not** exist to date. This is because, for one thing, there is no knowledge about the total scope of compliance costs, and the required baseline measurement would be prohibitively expensive. For another, the experience gained so far with the development of compliance costs, also internationally, is too limited. However, as soon as a better and international basis of experience exists, the issue of an overarching quantitative target should be raised again.

The new work programme of the Federal Government provides, inter alia, that the compliance costs as identified at the time a regulation was adopted shall, in future, undergo a subsequent evaluation in accordance with a standardised process. The NKR welcomes this approach which had already been applied to the costs of bureaucracy because it will, for one thing, substantiate the original estimate and, for another, yield valuable insights for future estimates of burden. In this connection, **the NKR subscribes to the view that, beyond addressing the issue of evaluating the original compliance cost estimate, the question as to whether the objectives pursued by the relevant legislation have been attained, should also be dealt with.** This is necessary in the opinion of the NKR because the attainment of objectives is closely linked to the resultant burden. While it is helpful to know about the burden caused by a regulation, it is crucial to first answer the question as to whether the political objectives and expectations pursued by the regulation have been attained. If that is not the case, the burden caused by the

regulation will become pointless, too. It is therefore obvious that the **burden and the achievement of objectives should be evaluated together ex post**. As early as at the adoption of a law, assessment criteria should be laid down that will form the essential foundation for a subsequent review by the government departments.

5. Projects of the National Regulatory Control Council

The NKR has carried out a number of projects in the past to look into the burden placed on the citizens, the business sector and public authorities in specific areas; all these projects were aimed at drawing up proposals for burden reduction.

In the spring of this year, the NKR evaluated the extent to which the four “Facilitating the Application for...” Projects already carried out and the simplification measures proposed in these projects have been implemented: The legislator has already taken some of these proposals on board; however, the examination of the implementation of the Federal Training Assistance Act (*BAföG*) Project has shown that some details have not been implemented as yet. These include the lump-sum recognition of health insurance contributions already called for in the 23rd revision of the Federal Training Assistance Act (*BAföG*), which still remains to be implemented. The Federal Government, in tandem with the Federal states, has given close consideration to the proposals made in the “Facilitating the Application for ...” Project “Optimising Entry”, which was about simplifying the access of foreign professionals and managerial employees. A corresponding amendment to the Ordinance Governing Residence (*AufenthV*) was initiated at short notice. In the opinion of the NKR, there is further scope for simplification with respect to the consistent use of IT resources and electronic data transfer. The Council, through monitoring, will follow up on the consistent implementation of the proposals.

The NKR is currently working on a new project aimed at describing the bureaucratic burden deriving from documentation and accounting in doctors’ surgeries. The project is to develop proposals for simplification and highlight savings potentials. The investigation is to be conducted in cooperation with the Federal Ministry of Health (*BMG*), the Better Regulation Unit, the Federal Statistical Office (*StBA*), the National Association of Statutory Health Insurance Physicians (*KBV*) and the National Association of Statutory Health Insurance Dentists (*KZBV*). The NKR is currently reviewing additional ideas for projects.

In addition, the NKR is providing support for selected projects that offer an important potential for cutting red tape. These include the Germany Online Project “Vehicle Systems” in particular. Building on previous proposals for an online procedure for taking vehicles off the road and registering them again, it is now intended to develop online solutions for the whole process of motor vehicle registration. The NKR is very much in favour of this approach as it will simplify matters for millions of people in a concrete and appreciable manner.

6. Reducing Compliance Costs through eGovernment

As noted with regard to information obligations, **eGovernment** has shown itself to be an **indispensable tool in an effective administrative process**. The use of information technology (IT) can substantially contribute to reducing bureaucratic burdens. So, for instance, about 50 per cent of the relief provided for the business sector from the costs of bureaucracy is attributable to IT use.

Nonetheless, Germany remains well below its potential in this area. This is largely due to the regulatory environment (such as written form requirements), which, because of new technologies, requires revision, and to the fact that, in many cases, important IT infrastructures are absent in the administrative sector or application concepts are not designed and implemented holistically beyond individual ministries and authorities. It is the understanding of the NKR that the eGovernment Act (EGovG) will enable a major step forward to be made in this respect.

7. Methodology for the identification and presentation of compliance costs

In 2011, on the basis of the revision of the NKR, the Federal Government and the Council developed a methodology for the identification and presentation of compliance costs.

This **methodology has proved to be useful in the opinion of the NKR**. The presentation of compliance costs in the draft regulations provides those taking decisions on a draft regulation with a full picture of the impacts on the citizens, the business sector and public authorities and thus with a solid basis for their decisions. However, the application of the methodology has also shown that, **in certain cases, difficult issues of assessment and interpretation** may well occur.

To an even greater extent than in the identification of the costs of bureaucracy, a **consideration across various levels is a key element** in dealing with compliance costs. Many regulatory initiatives do not only entail implementation costs at the Federal level but also at those of the Federal states and municipalities. The burdens placed on the latter should already be taken into account during coordination at the Federal level. These have to be identified in accordance with the methodology laid down in the guidelines as this is the only way to consistently present compliance costs.

The NKR engages in regular dialogue with the Federal states and municipalities as well as with social insurance institutions, chambers and associations in order to ensure that compliance costs are presented in a comprehensive and balanced manner. A lot still remains to be done in this regard! The Federal states and municipalities, in particular, are called upon to undertake greater efforts in the identification of compliance costs as this is the only way to appropriately address the burdens placed on them.

For this reason, the NKR welcomes the project “Identifying implementation costs of the tax administration during legislative procedure”, which was initiated by the Federal Ministry of Finance. The Federal Ministry of Finance and the tax administrations of individual Federal states have drawn up a method to better estimate the administrative effort generated by new tax legislation. The method was first applied to the 2013 Annual Tax Law (*JStG*).

The Federal Statistical Office (*StBA*) performs a particularly important and helpful function as it does not merely provide the ministries with methodological information but, on request, identifies the compliance costs in their entirety. It is also a key knowledge holder since it has participated from the start in the practical implementation of the Government Programme for “Bureaucracy Reduction and Better Regulation”.

8. Situation regarding the reduction of bureaucracy costs

Nearly 9,500 information obligations generating a burden of some € 49 billion were identified in the course of the so-called baseline measurement, the determination of the costs arising for the business sector as a result of information obligations. In 2007, the Federal Government had set itself the target of cutting these bureaucracy costs by (a net) 25 per cent within five years.

The government has succeeded in cutting the **costs of bureaucracy incumbent on the business sector by nearly € 11 billion**, among other things, by simplifying electronic invoicing and abolishing a whole range of accounting and bookkeeping obligations as well as abolishing the obligation to perform a reporting-date measurement in accordance with the Commercial Code (*HGB*). This reduction of bureaucracy costs achieved by the Federal Government is a success to be proud of, also by international comparison. Various examples show that this success is appreciable, also for the addressees of the regulations. For this reason, following the end of the first phase of the government programme, the NKR issued a newspaper supplement containing a number of practical examples of the bureaucracy reduction achieved since 2006.²

As the target had **not been fully achieved so far**, the Federal Government, in December 2011, decided on nine packages of measures in a key issues paper by which the 25 per cent target can still be attained, albeit belatedly. In addition, the government will publish a so-called index of bureaucracy costs that is to portray the further development of the costs of bureaucracy. The NKR welcomes the fact that the Federal Government is sticking to its objective and, through the index of bureaucracy costs, will continue to keep tabs on the costs of bureaucracy. It is the Council’s understanding that the index of bureaucracy costs will be published at regular intervals.

² See Annex 4.

9. Reduction of bureaucracy at the EU and international levels

The issue of bureaucracy reduction and better regulation also features large in Europe and a number of other countries. This is important for the citizens, enterprises and public authorities in Germany as it makes no difference to the addressees of regulations in Germany whether a regulation imposing a burden was issued by the European Union, the German legislature or a Federal state.

The institutions of the EU are not the last that are meanwhile paying greater attention to the subject of bureaucracy reduction. However, whether the Commission will systematically check the impact assessments of all new legislative proposals continues to be impossible to predict. On the positive side, the European Parliament created its own directorate at the beginning of this year to deal with impact assessments of regulatory proposals. The European Council is the only institution that, so far, has given no indication of an initiative to focus greater attention on the subject of impact assessment. **In the opinion of the NKR, all three EU institutions should provide an equal and coordinated input into this matter.** That has obviously not been the case so far.

At the international level, the OECD is the key actor in the development of methods and standards for reducing bureaucracy. The NKR welcomes the commitment of the OECD to develop common principles for measuring compliance costs with the involvement of interested OECD member states and to publish those principles in a report.

Owing to the considerable importance of European and international rules and standards to Germany, the NKR recommends that the Federal Government should continue to strongly promote bureaucracy reduction and better regulation at the EU and international levels. The Federal Government should come out in favour of the Commission extending its bureaucracy reduction programme to cover compliance costs as well.

The national implementation of EU legislation should be carried out in such a way as to impose the least possible burden. The stepped-up exchange of best practice with other member states announced by the Federal Government could be a useful tool in this connection, provided it is really taken seriously.

II Mandate and Responsibilities of the National Regulatory Control Council

1. Reviewing the presentation of compliance costs

The legislator has **substantially added to the responsibilities of the National Regulatory Control Council (Nationaler Normenkontrollrat, NKR)** through the revision of the Act on the Establishment of a National Regulatory Control Council (NKRK) which became effective in March 2011. The review carried out by the Council is no longer confined to identifying the costs of bureaucracy resulting from information obligations but encompasses the **presentation of the compliance costs of the citizens, the business sector and public authorities in their entirety**.³ In this respect, the term compliance costs embraces the measurable time and costs incurred through compliance with a provision under Federal law. Examples of provisions resulting in compliance costs:

- » obligation of the citizens to obtain a new ID card
- » obligation of enterprises to retrofit their plants with emission control filters
- » obligation of authorities to process applications
- » obligation of authorities to monitor compliance with quality standards for foodstuffs.

Compliance costs also include bureaucracy costs incurred by natural or legal persons due to information obligations. Information obligations are obligations according to which data and other information has to be procured or kept available for authorities or third parties, or communicated to them. Examples of information obligations:

- » declarations and notifications submitted to tax authorities (income tax return, among other things)
- » accounting obligations of enterprises
- » energy labelling of household appliances
- » application for authorisations (construction permit, recognition of occupation, etc.), and benefits administered by the State (unemployment benefit, housing allowance, etc.)

Compliance costs do not include so-called direct payments (such as taxes, child support, unemployment benefit, and subsidies).

³ For further details about the review by the NKR refer to Chapter III.

In addition, the NKR looks into the presentation of the other costs incurred by the business sector (such as fees and levies).

The **review** conducted **by the NKR** aims to ensure that those taking decisions on a draft regulation are provided with a **solid basis for their decisions**. The Council is to guarantee that the drafts provide an understandable picture of the impacts on the citizens, the business sector and public authorities. The responsibilities of the Council do not include challenging the reasonableness of a political objective or anticipating an appraisal by the legislative or regulatory authority.

The NKR welcomes the fact that, besides the costs of bureaucracy, the compliance costs are now being looked into in their entirety. The focus on the costs of bureaucracy turned out to be too limiting in the end. It was a good idea to initially define a manageable object of review by focussing on the bureaucracy costs deriving from information obligations so as to acquire experience in this area and reduce the bureaucracy resulting from these obligations, also by availing oneself of the experience gained abroad with the Standard Cost Model for measuring the costs of bureaucracy. However, the limited focus on the costs of bureaucracy ultimately remained unsatisfactory because essential costs were often left out of the equation. The inclusion of compliance costs has removed this limitation. It is now possible for the entire burdens resulting from a regulatory initiative to be taken into account. In this connection, the NKR sets particular store by the fact that, as a result of the revision of the NKRK, the review conducted is no longer confined more or less to the burden on the business sector but devotes equal attention to the burden placed on the citizens and public authorities.

The identification and presentation of compliance costs creates a lot of extra work, mainly for the Federal Ministries responsible for these functions. The burden deriving from the review of draft regulations has substantially increased, also for the NKR. In the opinion of the NKR, this additional effort is justified by the fact that the **identification of compliance costs will substantially contribute to effective legislation**. The draft regulations provide the decision makers with a full picture, not only of the objective and/or benefits of a regulatory initiative but also of the resulting burden on the business sector, the citizens and public authorities. In this way, then, a comprehensive and robust basis for decision making is ensured. In other words: The legislator now has a better and more precise knowledge of the matters on which he is to decide.

2. Additional powers of review of the National Regulatory Control Council as per Section 4(2) NKRK

Since the revision of the NKRK, the Council, in its reviews of the Federal Government's draft regulations, has been able to not only look into the identification of compliance costs and other costs but to also examine the methodologically appropriate implementation and comprehen-

sible presentation of the aspects laid down in Section 4(2) NKRГ.⁴ These additional aspects are laid down in Section 43 of the Joint Rules of Procedure of the Federal Ministries (GGO):

- » objective and necessity of the regulation
- » other possible solutions (alternatives)
- » time of entry into force, time limit, and evaluation
- » simplification of legal and administrative procedures
- » one-to-one transposition of directives or other legislative acts of the European Union into national laws (so-called gold plating)

Experience has shown that some of the requirements of the Joint Rules of Procedure of the Federal Ministries were not adequately taken into account in the past, in particular as regards the presentation of alternatives. The revision of the NKRГ was to counteract this problem.

3. Involvement of the National Regulatory Control Council in the legislative procedure

The NKR is the methodological guardian in the legislative procedure as far as the estimate and identification of compliance costs are concerned. According to the Joint Rules of Procedure of the Federal Ministries, the **NKR is involved in the legislative procedure in the same way as a ministry**. Consequently, ministerial draft bills are submitted to the Council for review and an opinion no later than the start of the coordination process within the Federal Government.⁵ To an increasing extent, the NKR is involved in the identification of compliance costs even before the start of the coordination process.

Once this coordination process has been completed, the NKR will issue a **formal opinion** to the line ministry. This opinion - plus the response of the Federal Government, where appropriate - will become **part of the Cabinet bill** and be subsequently dealt with in the Federal Cabinet. The opinion, together with the draft regulation adopted, will then be sent to the German Bundestag and the Bundesrat [the two Houses of the German Parliament].

In the opinion of the NKR, the **procedure between the ministries and the Council works smoothly on the whole and has proved to be successful**. There are, as yet, no clear guidelines as to the way in which the Council is to be involved in wording aids submitted to Cabinet. The NKR believes that its input should be included in wording aids submitted to Cabinet since these do not substantially differ from other Cabinet bills.

The involvement of the NKR in so-called **Federal Ministry of Finance letters** is another issue

4 For further details about the review process refer to Chapter III.

5 *ibid.*

that **remains to be clarified**. Federal Ministry of Finance letters are administrative provisions that interpret tax laws as well as the obligations established by them. Even though the letters are aimed at the tax authorities of the Federal states, enterprises and the citizens are in effect bound by their contents. The letters about the e-balance sheet and the confirmation of receipt are good examples of the fact that Federal Ministry of Finance letters significantly impact on the burden placed on the business sector, the citizens and public authorities. The NKR has prepared a key issues paper that will serve as a basis for future discussions on an appropriate involvement of the Council.

It should be noted that the ministries, especially in the case of complex regulatory initiatives, increasingly contact the NKR at an early stage (even before the formal coordination process is initiated) in order to settle questions of burden ascertainment. However, the fact that regulatory initiatives are sometimes submitted at very short notice, is a point of criticism. The Council cannot vouch for a systematic review in such cases.

4. Cooperation with the German Bundestag and Bundesrat

Cooperation with the *Bundestag* and *Bundesrat* is explicitly provided for in the NKR. Section 6(3) of this Act states that the NKR is available to the committees of the German *Bundestag* and *Bundesrat*. The 2011 revision of the Act has added the provision that the Council can also review **draft regulations from the floor of the Bundestag at the request of the parliamentary group or member of the Bundestag proposing the legislation** (Section 4(3)). The Council will review *Bundesrat* draft regulations if these are transmitted to the Council by the *Bundesrat*.

The legislator includes the NKR in deliberations, even beyond the review of specific draft regulations (e.g. the 2011 Tax Simplification Act (StVG)). So, for instance, the Council, in the Subcommittee on Regional Economic Policy of the Committee on Economics and Technology of the German Bundestag, gave a report on the bureaucratic burden deriving from the Commission's proposal for a new structural policy. On that occasion, the Council clearly stated that the impact assessments delivered by the European Commission on that proposal were incomplete and totally ignored the burden probably resulting on the member state administrations. An agreement has been reached to the effect that the ministry of economics responsible for subsequent negotiations within the EU Council will call upon the Commission to provide estimates on the matter.

In November 2011, the parliamentary groups of the coalition and the SPD parliamentary group of the German *Bundestag* each submitted a request for bureaucracy reduction. In these requests, the parliamentary groups stated their fundamental positions and communicated expectations to the Federal Government regarding the areas of law to be earmarked for simplifications. The NKR expressly welcomes these initiatives. They document the interest of Par-

liament in the subject of bureaucracy reduction as such as well as in specific and appreciable simplification measures.

The NKR welcomes the fact that it is now in a position to issue opinions on bills of the German *Bundestag* and *Bundesrat*, if desired. In this way, in the Council's view, even closer attention will be paid in the legislative procedure to issues concerning the burden on the business sector, the citizens and public authorities or to aspects of better regulation. The demand that the compliance costs should be taken into account in regulatory impact assessment represents a huge leap forward; for this reason, the NKR has started to inform members of the parliamentary groups of the German *Bundestag* on the practical implications of the revision of the NKR and the opportunities thereby created. It remains to be seen to what extent the *Bundestag* and *Bundesrat* will avail themselves of these new opportunities in the months to come.

5. Cooperation with Federal states and municipalities

The Federal states and municipalities play an important part in the application of Federal law. Increasingly complex rules for increasingly complex situations call for ever increasing numbers of staff and impose ever increasing burdens for implementation and monitoring. Conversely, the following applies: Rationalised administrative structures can be achieved only if compliance costs drop and if this process is underpinned by a consistent use of eGovernment. The NKR therefore welcomes the quantification and presentation, by the Federal states and municipalities, of the anticipated compliance costs whenever these costs affect them in the implementation of legislative provisions.

Also, the **Federal states and municipalities** are **important partners of the NKR** in the implementation of projects.⁶

When estimating the compliance costs deriving from stipulations to be implemented by the Federal states or municipalities, the **Federal Ministries often depend on the assistance of the Federal states and/or municipalities** which, where appropriate, may be represented by their associations. When stating their costs, it is essential that the Federal states and municipalities should apply the Federal Government's methodology for the presentation of compliance costs. Only on that basis will it be possible for the Federal Ministries to give a consistent and comprehensible account of compliance costs. Closer cooperation with the Federal states and municipalities is required if this objective is to be accomplished.

6 For further details refer to Chapter VI.

6. Cooperation with the Federal Government Coordinator for Bureaucracy Reduction and Better Regulation and the Better Regulation Unit

Eckart von Klaeden, Minister of State to the Federal Chancellor and Member of the German Bundestag, is in charge of the measures of the Programme for “Bureaucracy Reduction and Better Regulation” at the Federal Chancellery. He is the Chairman of the Committee of State Secretaries for the Reduction of Bureaucracy, which is the responsible steering board within the Federal Government.⁷ The Better Regulation Unit at the Federal Chancellery coordinates and monitors the implementation of the government programme at the working level. It assists the Committee of State Secretaries with the discharge of their control tasks.

Thus, Minister of State Eckart von Klaeden is the central point of contact within the Federal Government and for the NKR, in particular where overarching issues of bureaucracy reduction and better regulation are concerned.

The NKR wishes to thank Minister of State von Klaeden for cooperating with the Council in a spirit of trust and commitment. We have achieved a lot through joint efforts. The NKR would like to continue this fruitful partnership in various areas of responsibility.

7. Cooperation with the Federal Statistical Office

As part of the Government Programme for “Bureaucracy Reduction and Better Regulation”, the Federal Statistical Office provides assistance to the NKR, among other institutions. Since 2006, the Federal Statistical Office has measured the bureaucracy costs deriving from all information obligations incumbent of the business sector (some € 49 billion resulting from about 9,500 information obligations), thereby making a substantial contribution to reduction efforts undertaken by the Federal Government and the NKR on the basis of these figures. The Federal Statistical Office will continue to update these bureaucracy costs within the framework of the so-called index of bureaucracy costs.⁸ Also, since the revision of the NKR, **the Federal Statistical Office has assisted the NKR and the Federal Ministries with the estimate of compliance costs.** This assistance by the Federal Statistical Office takes the form of reviewing the estimates of the ministerial departments, rendering technical support with the estimates or even conducting them in their entirety. The ministries are increasingly availing themselves of the assistance offered.⁹

Also, the Federal Statistical Office makes important contributions to so-called ex-post projects.¹⁰ It participates in the design of individual projects and conducts measurements for the agencies involved, thereby making an essential contribution to the documentation of results.

7 Federal Government Report 2011, “A Foundation for Better Law: Five Years of Bureaucracy Reduction and Better Regulation”.

8 For further details refer to Chapter V.

9 For further details refer to Chapter III.

10 For further details refer to Chapter VI.

8. Cooperation with social insurance institutions, chambers and associations

The social insurance institutions play an essential part as regards social security. For one thing, they enforce regulations, which is a cumbersome business considering the large number of fields of action. Regulatory change often has significant repercussions on compliance costs. For another, the social insurance institutions lay down rules within the scope of their powers. These rules impact on many citizens and the business sector, which, in turn, results in burdens being placed on them. For this reason, the NKR **attaches special importance to cooperation with the social insurance institutions** and maintains a close dialogue with them.

The Federal Joint Committee (G-BA) is the highest decision-making body of the joint self-government of physicians, dentists, psychotherapists, hospitals and health insurance funds in Germany. The 1 January 2012 Care Structures Act of the statutory health insurance scheme has added a regulation to Book V of the German Social Security Code stipulating that the Federal Joint Committee, as of 1 September 2012, will have to identify the expected costs of bureaucracy deriving from its decisions and, in the statement of reasons for the decision in question, present those costs in a comprehensible manner. In November 2011, a project group was set up at the Federal Joint Committee to prepare the introduction of the cost estimate. The NKR cooperated in this effort. The meetings particularly highlighted the fact that the cost estimate can also contribute to defining more clearly the rules adopted. Based on the results achieved by the project group, the rules of procedure of the Federal Joint Committee were changed in June 2012, thereby permitting the bureaucracy cost estimate to start in time. The NKR will continue to cooperate with the Federal Joint Committee in fundamental matters of methodology.

Furthermore, the Council conducts a dialogue with the chambers and associations since they, too, bring together the interests of their members and focus their knowledge. Over the past few years, the chambers and associations have supported the process of bureaucracy reduction in various ways, and they also play an essential part in the presentation and reduction of unnecessary compliance costs.¹¹ For this reason, the NKR will gladly continue to avail itself of the support offered by the associations so as to arrive at appropriate assessments in the exercise of its mandate.

¹¹ For further details refer to Chapters V and VI.

III The Review Methods of the National Regulatory Control Council

1. Conduct of the review by the National Regulatory Control Council

The NKR is involved in the coordination process within the Federal Government in the same way as a Federal Ministry. Consequently, the Council is to be included in the coordination process no later than the date on which the ministerial draft bill is sent out.

The **NKR** primarily **reviews** the presentation of compliance costs and other costs. In conducting this review, the Council uses **the Guidelines of the Federal Government as a basis**.¹² Moreover, the Council may look into things such as whether the objective is presented in a comprehensible manner, whether the regulatory initiative is really necessary, and whether other possible solutions have been considered.

The review of a regulatory initiative by the NKR proceeds in four steps:

- 1.1 Examination of the presentation of compliance costs, other costs, and the aspects to be reviewed as per Section 4(2) NKRGG
- 1.2 Alignment of the results by involving third parties
- 1.3 Discussion of the results with the line ministry
- 1.4 Transmission of the formal opinion of the NKR

The steps of the review are set out in detail below.

Re 1.1:

The NKR initially reviews whether the compliance costs and other costs are presented in a full and comprehensible manner. Specific questions to focus on in the review are:

- » What is the content of the obligation in question? How can the obligation be met?
- » Is the obligation (in its proposed form) necessary?

¹² See the June 2011 Guidelines on the Identification and Presentation of Compliance Costs in Legislative Proposals by the Federal Government.

- » Is the burden caused in specific cases by compliance with the obligation presented in a comprehensible manner? What substantive and personnel costs does compliance with this obligation generate?
- » Is the frequency with which addressees have to comply with the obligation presented in a comprehensible manner?
- » What are the one-time adjustment costs generated by the regulatory initiative?
- » Does the regulatory initiative entail any other costs (e.g. fees, levies)?
- » Are these costs presented in a comprehensible manner?
- » Are the impacts of the regulatory initiative on unit prices and the price level presented in a comprehensible manner?

Subsequent to dealing with these questions, the presentation of the aspects to be reviewed as per Section 4(2) NKRK will be checked for comprehensibility.

- » **Objective and necessity of the regulation:**
Every regulatory initiative must contain explanations on its objective and necessity. The NKR is charged with checking whether the objective and/or the benefits of a regulation are presented in a comprehensible manner, and whether the measures set out in a draft regulation are deemed appropriate to achieving the objective.
- » **Other possible solutions (“consideration of alternatives”):**
There is often more than one way of achieving an objective set by politics. For this reason, a presentation of alternatives is required for every draft regulation. The decision for the approach chosen must be substantiated. Accordingly, the NKR has to check whether other possible solutions have been considered and whether the decision for the solution favoured is comprehensible. In this connection, the Council will also look into the question as to whether there are less burdensome implementation variants.

Example**Act amending the Act on Statistics in the Manufacturing Sector (Federal Ministry of Economics and Technology)**

The regulatory initiative wishes to add a new survey characteristic – the backlog of orders – to the manufacturing sector statistics. Due to the increased scope of the survey, the NKR, in its first opinion, had encouraged the examination of more cost-effective alternative regulations. The Ministry has acted on this suggestion. As a result, the only differentiation now made in the survey is between domestic and foreign backlogs of orders. A further distinction between eurozone and non-eurozone countries has been dispensed with. In this way, the burden on the statistical offices of the Federal states, in particular, could be reduced by a third and/or € 200,000 a year.

- » Time of entry into force, time limit, and evaluation:
Every draft regulation must include information about the time of entry into force and the possibility of putting a time limit on the regulation in question.¹³ So, for instance, placing a time limit on the intended rules may be appropriate in the case of a draft regulation pertaining to a temporary situation. It may be a good idea to combine the time limit with an evaluation of the rules at issue. Accordingly, the NKR will examine whether the pertinent considerations of the Federal Government are understandable.
Since July 2011, the NKR has encouraged an evaluation to be conducted for twelve regulatory initiatives, among them the Ordinance on the Establishment of a Financial Investment Intermediary Regulation of the Federal Ministry of Economics and Technology.
- » Simplification of legal and administrative procedures:
The draft regulation must indicate whether the draft provides for a legislative or administrative simplification, in particular whether it will simplify applicable rules or make them redundant. The NKR is responsible for checking whether the draft regulation contains statements to that effect.
- » One-to-one transposition of directives or other legislative acts of the European Union into national laws:
Unlike EU regulations, legislative acts of the EU such as directives have to be transposed into national legislation as a matter of principle. If national legislation imposes obligations exceeding those provided for in the directive (so-called gold plating), this must be indicated in the draft regulation, which also has to contain a statement of reasons for the supererogatory transposition. It is incumbent on the NKR to check whether this rule is satisfied.
So far, the Council has found fault with two projects for not providing comprehensible statements on the issue of the one-to-one transposition of EU legislation. In its opinion on the First Regulation implementing the Directive on Industrial Emissions and the Act to Improve Public Participation and Harmonise Plan Approval Procedures, the Council criticised that the draft did not comprehensibly set out the necessity for exceeding the provisions under European law. The Council observed that it did not see why national requirements should not be reduced to the minimum stipulated by European law. On the other hand, the Council welcomed the fact that the Federal Government, within two years of the entry into force of the Act to Improve Public Participation and Harmonise Plan Approval Procedures, will examine whether a simplified approval procedure is an option for other types of installations. The NKR expects that unnecessary red tape can be dispensed with in the above matter and has called upon the Federal Government to notify it of the results of the examination.

13 The coalition agreement between the CDU/CSU and FDP of 26 October 2009 calls for increasing use to be made of the possibility of a time limit.

Re 1.2:

The results of the examination will be aligned with the appraisals of third parties such as the Federal Statistical Office, the Federal states or associations.

Re 1.3:

The Council will subsequently discuss the results of the above examination with the line ministry of the Federal Government. Experience has shown that most of the outstanding and/or contentious issues are addressed in this step of the review so that those issues will no longer come up in the formal opinion of the NKR. The Council's opinion will merely contain the key statements on compliance costs and other costs. If applicable, it may also address the other issues to be reviewed as per Section 4(2) NKRG as well as the issues that continue to be contested between the Council and the ministry and have therefore not been presented in accordance with the Council's requirements.

Re 1.4:

Once the NKR has taken a decision, its opinion will be sent to the line ministry. The opinion will then be submitted to the Cabinet as an annex to the draft regulation (if the NKR has expressed criticism in the opinion, it will include the Federal Government's response to the Council's opinion) and sent to the German Bundestag and/or Bundesrat subsequent to decision-making in the Cabinet.

2. Previous experience with the methodology applied in the identification of compliance costs

The methodology described in the Federal Government's Guidelines on the Identification and Presentation of Compliance Costs provides guidance on how to proceed in the estimate of these costs.

In principle, this **methodology has proved to be useful in the opinion of the NKR**. The purpose of the methodology – providing a solid basis for decisions on a regulatory initiative – is achieved in most cases. Therefore, from today's perspective, we do not consider a fundamental revision of the methodology necessary.

The application of the methodology has shown that, **in certain cases, rather difficult issues of assessment and interpretation** may well occur:

- » So, for instance, it is sometimes difficult to distinguish between direct costs (which are to be presented as part of compliance costs) and indirect costs.
 - » The methodology comes up against its limits when "global" requirements are introduced, that is to say requirements whose compliance involves a large number of individual
-

processes. One example of this is the introduction of legal and/or technical supervision of another institution. The task of supervision comprises a large number of individual processes, and whilst a description of these processes is possible, a reliable estimate of the compliance costs generated by them presents major difficulties. Similar considerations apply to the establishment of new administrative bodies. In such cases, the compliance costs can be expressed in terms of full-time employees (FTE). This form of presentation takes account of the fact that breaking the provision down into individual processes and quantifying the respective compliance costs would constitute a very arduous task. However, since a global requirement entails an equally global cost estimate, this approach would be detrimental to the comprehensibility of the quantification.

Example**Act amending Book XII of the German Social Security Code (Federal Ministry of Labour and Social Affairs)**

The draft is to put regulations into place pertaining, among other things, to the way the Federal Government will conduct its legal and technical supervision of the basic subsistence income for the elderly and for persons with reduced earning capacity. The duty to perform supervision will result in compliance costs for the Federal Ministry of Labour and Social Affairs, for instance, in the evaluation of statistics and reports and the coordination of administrative procedures and issues of interpretation with the Federal states and the umbrella organisations for local authorities. Since the scope of the compliance costs thus generated substantially depends on the frequency of anomalies or irregularities, and the compliance costs deriving in specific cases, too, are closely linked to the particular question being asked, it has not been possible in this instance to use the general formula of “compliance costs in the specific case x number of cases” in the identification of compliance costs. For this reason, the ministry has expressed the compliance costs in terms of full-time employees (FTE).

Besides application issues in the strict sense of the term, there are cases similar to that of the costs deriving from information obligations where quantification by the Federal Ministries and thus also a review by the NKR presents difficulties:

- » This applies, for example, to the quantification of compliance costs in connection with so-called enabling norms. There is always the challenge in such cases of plausibly estimating the number of addressees that will avail themselves of the option provided. The requirements concerning the plausibility of the number of cases will have to be scaled down in these cases.
- » A plausible estimate of the burden may be difficult if part of the issue to be resolved is not to be regulated by the law in question itself but, for example, by regulations. It is the understanding of the NKR in such cases that there will be proximity in time between future legislative amendments and regulations based on them. The same situati-

on exists when a Federal law is to form the basis for regulations whose actual form will be determined then by the Federal states or the social insurance institutions. In such cases, one will have to work with a higher degree of assumptions in the identification of compliance costs. It is important in this context that the various assumptions should be plausible in their own right so that the compliance cost estimate subsequently carried out is plausible as a whole and not just in terms of figures.

- » In many cases, only a rough estimate can be made of the adjustment costs, i.e. the one-off burden generated to permit a legal requirement to be fulfilled in the first place. This is because there is no process on which the adjustment cost estimate can be based. On the contrary, the adjustment costs derive from comparing the status quo with the status envisaged as a result of the intended rule. The initial situation of the individual addressees can vary greatly, which means that the possible adjustment costs can show an equal degree of difference.
- » Provisions to be complied with by Federal states or municipalities present the Federal Ministries with the challenge of limited access to the administrative processes within the Federal states and municipalities, depending on the area of law concerned. However, estimating the costs of a legislative amendment is hardly possible without a precise knowledge of those processes. For this reason, the Federal Ministries depend on the cooperation of the Federal states and/or municipalities, which, if applicable, may be represented by their associations. When stating their costs, it is essential that the Federal states and municipalities should apply the Federal Government's methodology for the presentation of compliance costs. Only on that basis will it be possible for the Federal Ministries to give a consistent and comprehensible account of compliance costs.

Considering that, in the identification and presentation of compliance costs, both the Federal Ministries and the NKR have entered unknown territory in terms of methodology, the legislator's requirement to provide an identification of compliance costs has been met fairly successfully in many cases according to the NKR.

When deciding on the **Guidelines** on Compliance Costs, it was agreed with the Federal Government that the Guidelines would be revised after a trial phase, if required.¹⁴ **Another trial phase seems a good idea** so as to gain yet more experience with the practical application of the methodology. The previous review of regulatory initiatives has shown that, owing to the diversity of the rules, ever new questions arise in connection with the application of the methodology in specific cases. These questions have to be answered satisfactorily, not only with regard to a specific case but also with regard to the overall systematics of presentation in the draft regulations.

In the opinion of the NKR, any such revision should make clear that the identification and

¹⁴ The proposed duration of the trial phase was to be two to three years.

presentation of compliance costs must include an estimate and presentation of the burden arising within contractual relations. Even if an intended legal provision does not change the totality of assets within a group of addressees, e.g. the citizens, the impacts of that provision on the group must nevertheless be presented if it has a bearing on the distribution of the totality of assets within the group.

Example

Act on the Energetic Modernisation of Rented Residential Space and the Simplified Enforcement of Eviction Orders (Federal Ministry of Justice)

The tenant has previously been allowed to retain part of the rent for the period in which the use of a rented property was impaired. However, the draft stipulates now that this right of the tenant to retain part of the rent shall be suspended for three months if the impaired use of the rented property is the result of an energy modernisation effort. So, for instance, the tenant would be unable in the future to retain part of the rent if his windows were replaced by energetically more favourable windows, even if he should suffer nuisance from the renovation works carried out. The Ministry had originally subscribed to the view that the suspension of the right to retain part of the rent for a period of three months did not place compliance costs on the tenant. However, it was agreed in the course of further coordination that the better arguments support an identification of the suspended right as compliance costs. The rescinding of a right (in this case the right to retain part of the rent) cannot be treated differently from the creation of a right. Since it is undisputed that the landlord's right to demand a higher rent from the tenant following renovation imposes compliance costs on the tenant, the prohibition of the tenant's right to retain part of the rent generates compliance costs, too. It is incontrovertible that a quantification of compliance costs is difficult in such cases. However, this fact is immaterial to the fundamental question as to what is to be quantified as compliance costs.

In order to ease the burden placed on the Ministries, the **Federal Statistical Office** assists them in estimating the compliance costs, thereby **making a valuable contribution** as in the case of the estimate of bureaucracy costs deriving from information obligations. So far, the Ministries have, in different degrees, availed themselves of the assistance provided by the Federal Statistical Office but have, on the whole, shown an increased tendency to make use of the support offered. **Since July 2011, the Federal Statistical Office has assisted the Federal Government with the identification of compliance costs for a total of 76 regulatory initiatives.**¹⁵ This number equals 20 per cent of all regulatory initiatives. The range of support offered by the Federal Statistical Office includes methodological advice, measuring the compliance costs of specific circumstances, and even fully identifying the compliance costs deriving from a regulatory initiative.

The **presentation of compliance costs constitutes the focus of the review carried out by the NKR**. In pursuance of this task, the Council benefits from the experience it has gained with the

¹⁵ Section 8 NKRG stipulates that the Federal Statistical Office, if necessary, shall assist the Federal Government and the German Bundestag and Bundesrat with the performance of the tasks deriving from this Act.

review of the costs of bureaucracy. However, the other aspects listed in Section 4 NKRK, too, are reviewed for any new draft regulation and, if applicable, discussed as part of the opinion delivered by the NKR. The examination and presentation of alternatives is of critical importance in this respect.

The **associations and chambers play a crucial part, especially where alternatives are concerned**. Their proximity to the matter in hand often enables them to provide valuable information on how to accomplish an objective in a less burdensome manner. Unfortunately, however, many of their opinions do not include specific statements on compliance costs but just pieces of indirect information about the volume of compliance costs resulting from a regulation. It would be helpful if the associations and chambers, to a greater extent than previously, provided specific solutions for identifying the compliance costs of regulatory initiatives applying to them. This would require a sufficient knowledge of the methodology used in the identification of these costs.

IV Development of Compliance Costs since July 2011

Since 1 July 2011, the NKR has conclusively reviewed a total of 350 regulatory initiatives. The paragraphs below will provide a survey of the development of compliance costs to date.

The survey below is based on regulatory initiatives of the Federal Government in the form adopted by the Cabinet (irrespective of the date on which the various regulations became effective). That is to say that amendments made in the course of parliamentary procedure are not included in the survey.

1. Development of compliance costs as a whole

The regulatory initiatives conclusively reviewed by the NKR will, on balance, **reduce annual compliance costs by some € 1.4 billion**. However, this drop in compliance costs is **mainly attributable to one single measure, i.e. the reduction of retention periods under fiscal and commercial law**. If this measure had not been taken, the compliance costs of the business sector would have increased by some € 1.1 billion since July 2011.

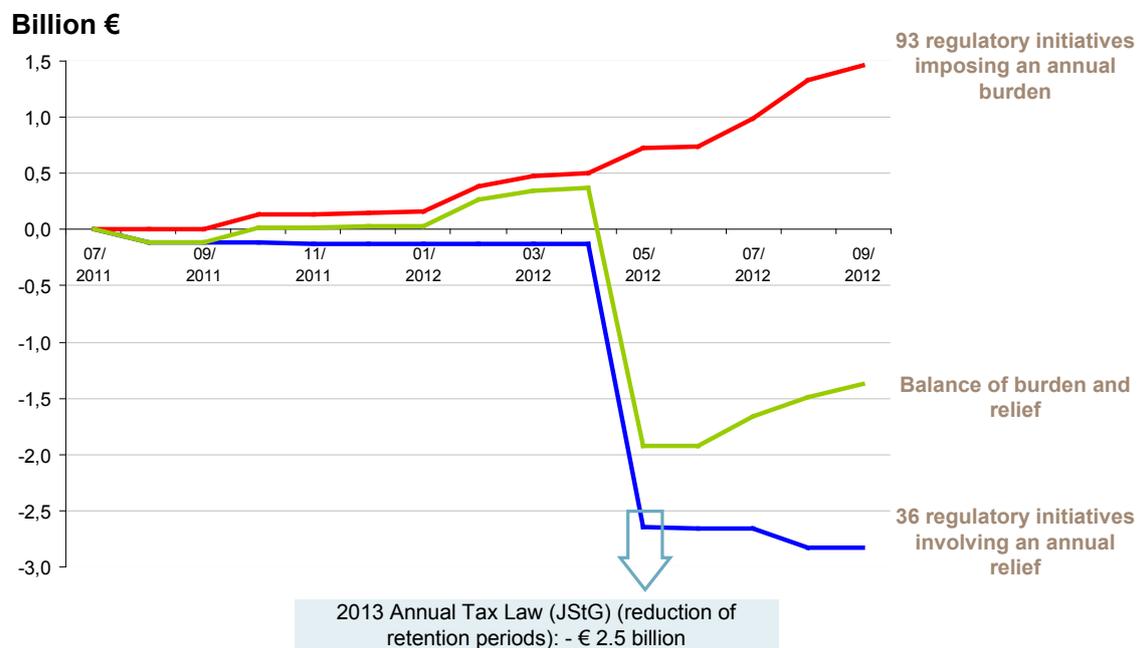


Fig. 2: Development of the compliance costs of the business sector and public authorities as a whole since 1 July 2011

Other countries that also identify compliance costs have been able to reduce those costs on balance. In the Netherlands, compliance costs are expected to drop by some € 100 million in 2012, and the UK anticipates a decline by about £ 850 million. One has to bear in mind in this context that the above figures cannot be compared directly owing to the relative size of the economies and the fact that the UK merely considers the burden on the business sector.

50 per cent of all regulatory initiatives have significant impacts on compliance costs even though there are differences between those who are subject to them. 36 per cent of the regulatory initiatives impact significantly on the compliance costs of public authorities. In the case of the business sector, this percentage is slightly lower at 34 per cent. A mere 9 per cent of all regulatory initiatives have a considerable bearing on the compliance costs of the citizens.

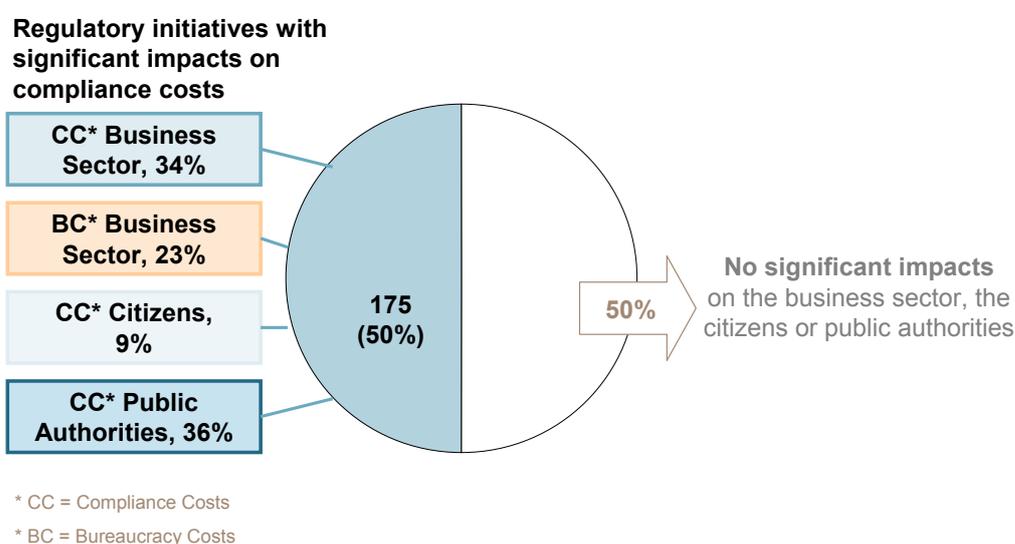


Fig. 3: Percentage of regulatory initiatives with significant impacts on compliance cost

Taking into account only the bureaucracy costs of the business sector deriving from information obligations, this share is 23 per cent. This is consistent with the experience of the past five years. Thus, the **number of regulatory initiatives with significant impacts has more than doubled** as a result of the inclusion of compliance costs.

2. Compliance costs of the business sector

55 regulatory initiatives have generated a gross burden of € 1.1 billion on the business sector. By contrast, 26 regulatory initiatives have created a € 2.6 billion relief to the business sector. Consequently, since July 2011, the **business sector** has, on balance, enjoyed a **relief of some € 1.5 billion**.

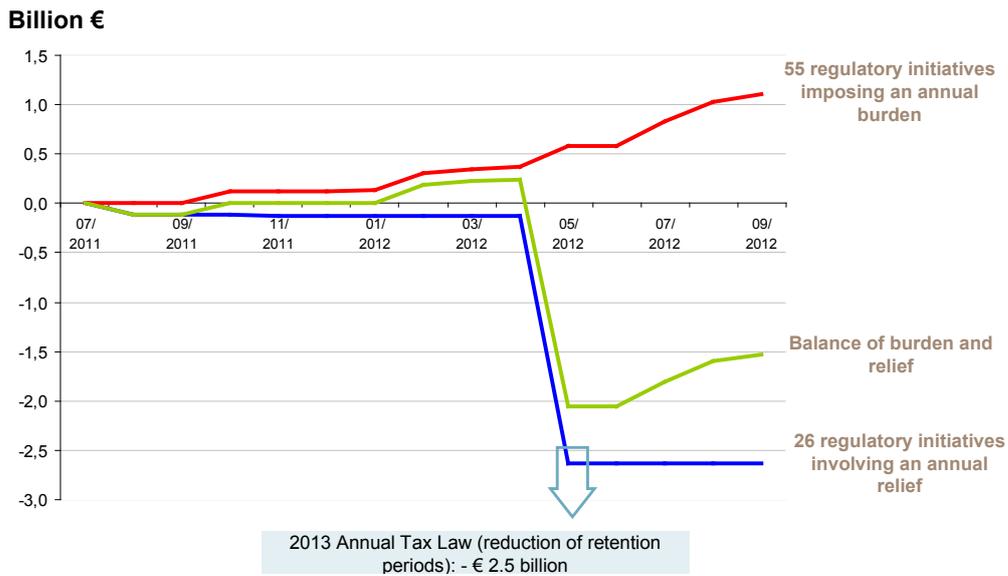


Fig. 4: Development of the compliance costs of the business sector since 1 July 2011

3. Bureaucracy costs of the business sector

38 regulatory initiatives have generated a gross burden of € 156 million on the business sector. By contrast, 16 regulatory initiatives have created a € 122 million relief to the business sector; consequently, since July 2011, the **burden of bureaucracy costs** placed on the business sector has increased by € 34 million.

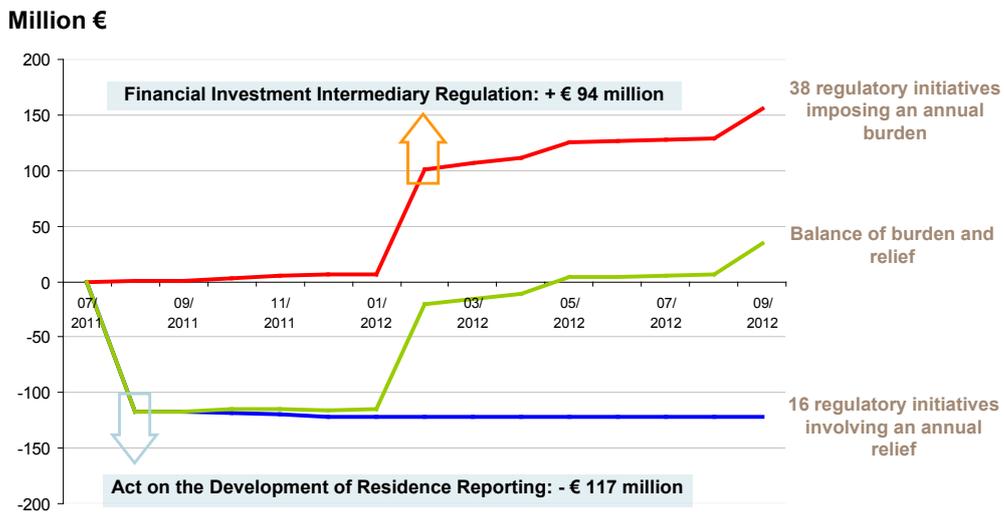


Fig. 5: Development of the bureaucracy costs of the business sector since 1 July 2011

4. Compliance costs of public authorities

Prior to the revision of the NKRG, the NKR did not subject the burden placed on public authorities to closer inspection. That was because in the case of public authorities it was often impossible to draw a useful distinction between bureaucracy costs deriving from information obligations and burdens generated by other obligations. The incorporation of compliance costs into the review has removed this problem as they include both types of burdens.

Since July 2011, a total of 92 regulatory initiatives have had an impact on compliance costs. 71 initiatives have generated a gross burden of € 281 million. By contrast, 21 initiatives have created a relief of € 201 million so that the **public authorities** have had a **net burden of some € 80 million** placed on them since July 2011.

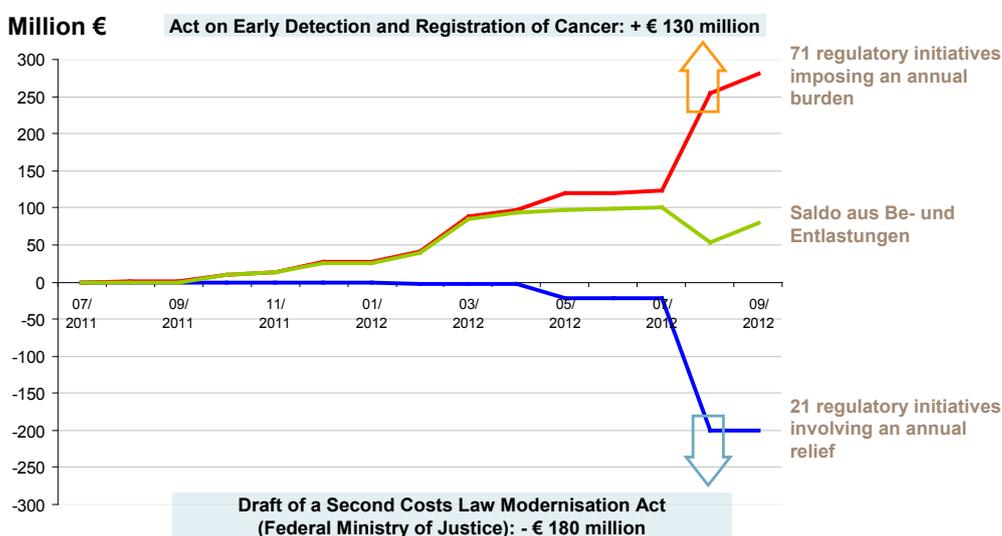


Fig. 6: Development of the compliance costs of public authorities since 1 July 2011

5. Compliance costs of the citizens

There are just 29 regulatory initiatives that impact significantly on the citizens. That is to say that 91 per cent of all regulatory initiatives reviewed so far have no or just marginal effects on the compliance costs of the citizens. Twelve of those 29 initiatives have generated a burden on the citizens while five have provided a relief. The tables below give examples of initiatives resulting in a burden on and/or relief to the citizens.

Regulatory initiatives involving a burden		
Federal Ministry	Regulatory Initiative	Significant Impact
Federal Ministry of Economics and Technology	Amendment of the Combined Heat and Power Production Act	» Rise in electricity costs for the consumer by € 100 million
Federal Ministry of the Interior	Law amending the 2005 Microcensus Act	» The provisions concern an annual number of 800,000 citizens and involve a time requirement of 30 minutes for the individual citizen.
Federal Ministry of Health	First Regulation amending the Licensing Regulations for Physicians in Germany	» In future, students will be required to evaluate the training they received during their one-year housemanship, using pre-set evaluation forms. This concerns some 10,000 medical students and involves an annual burden of about 30 minutes for the individual student.

Regulatory initiatives involving a relief		
Federal Ministry	Regulatory Initiative	Significant Impact
Federal Ministry of the Interior	Second Regulation amending the Integration Course Ordinance	» This regulation concerns 40,000 citizens a year and saves the individual citizen € 25 and two hours of time.
Federal Ministry of Food, Agriculture and Consumer Protection	Regulation repealing the Psittacosis Ordinance	» This regulation concerns 25,000 bird breeders a year and saves the individual breeder € 6 and one hour of time.
Federal Ministry of Labour and Social Affairs	Regulation amending EU Work Permit Legislation	» The obligation to apply for a work permit when taking up employment at a university/higher education institution, embarking on in-house vocational training, and taking up seasonal employment no longer applies. This regulation concerns approximately 160,000 employees a year and saves the individual employee about five minutes.

6. One-off compliance costs

One-off burdens – in many cases this signifies adjustment costs – only played a limited part during the original mandate of the NKR. A mere 4 per cent of all regulatory initiatives resulted in one-off bureaucracy costs. This share is 20 per cent in the case of compliance costs, i.e. **every fifth regulatory initiative imposes a one-off burden**, especially on the business sector and/or public authorities. Since July 2011, one-off burdens of some **€ 2.2 billion** have been generated **in total**. Some € 1.3 billion (60 per cent) account for the burden on the business sector, while the remainder, some € 0.9 billion (40 per cent), derives from the burden on public authorities.

Example**Law to Establish a Market Transparency Office (Federal Ministry of Economics and Technology)**

This example is an excellent illustration of the relevance of one-off compliance costs. According to the Federal Government, the annual costs of the business sector amount to € 4.2 million, while the adjustment costs to be borne by oil companies run up to as much as € 8.5 million per year.

Top 10 – Regulatory initiatives involving one-off compliance costs*

Regulatory Initiative	Federal Ministry**	Business Sector	Public Authorities	Total
Second Regulation implementing the Industrial Emissions Directive	BMU	846,000,000	25,000	846,025,000
Act to Promote E-Administration Schemes and Amend Other Regulations (eGovernment Act)	BMI	0	690,000,000	690,000,000
2013 Annual Tax Law	BMF	13,400,000	100,000,000	113,400,000
Sixth Ordinance amending Railway Law Regulations	BMVBS	89,600,000	0	89,600,000
Law to Establish a Market Transparency Office for the Wholesale Electricity and Gas Market	BMWi	85,100,000	4,340,000	89,440,000
Tenth Act amending the Law on the Supervision of Insurance Undertakings	BMF	73,000,000	0	73,000,000
Ordinance on the Establishment of a Financial Investment Intermediary Regulation	BMWi	57,000,000	0	57,000,000
Guidance to formulating amendments to the legislation pertaining to low-income employment	BMAS	35,000,000	0	35,000,000
Ordinance amending the Motor Vehicle Registration Regulation, other Provisions of Road Traffic Law, and the Regulation on Compulsory Motor Vehicle Insurance	BMVBS	13,600,000	10,300,000	23,900,000
Draft of a Second Costs Law Modernisation Act	BMJ	600,000	19,300,000	19,900,000

* Figures are in Euro.

** See List of Abbreviations, p. 93.

7. Conclusion

It is apparent from the information above that it is the compliance costs of the business sector that are most strongly affected. While it is true that the **business sector** as a whole has enjoyed a relief of some € 1.5 billion, this relief is attributable to one single measure, i.e. the reduction of retention periods under fiscal and commercial law. If this measure had not been taken, the compliance costs of the business sector would, on balance, have (continuously) increased by almost € 1 billion so far. For this reason, based on the lessons learned in the past twelve months, an **upward trend of compliance costs** is to be anticipated.

The situation is similar though not quite as pronounced in the case of the development of the compliance costs placed on **public authorities**. **Here, too, additional burdens are to be expected in the future owing to the constant increase in these costs.**

The compliance costs of the citizens have so far been comparatively minor. However, in this case – as in that of the business sector – one should bear in mind that, per definitionem, burdens imposed as part of compliance costs such as fees levied for services rendered by public authorities, or burdens resulting from rising prices attributable to regulatory initiatives are not taken into account. Thus there are additional costs arising from initiatives of the legislative or regulatory authorities that are not portrayed as part of compliance costs. This is because it is very hard to link costs such as those accruing from rising prices to a specific regulatory initiative, which means that a plausible quantitative presentation of such costs in a specific draft regulation often turns out to be impossible. All the same, considerable costs may be imposed on the citizens or the business sector.

In connection with the rise in compliance costs one should also bear in mind that it is merely the extent of change in these costs as a result of a regulatory initiative that is identified in the context of compliance costs. By contrast, a quantitative identification of the benefits of a regulation is not mandatory.¹⁶ Based on this rationale, the trend towards an increase in compliance costs is hardly surprising. The reason for dispensing with a mandatory presentation of the benefits of a regulation is that a plausible quantification of the benefits of a regulation is often far more difficult than a quantification of compliance costs. So, for instance, it is difficult to express in figures the benefits of a regulation designed to improve air quality. This is also true for regulations aimed at improving health or saving lives. The NKR subscribes to the view that looking into the benefits of regulations is a good idea at any event. For this reason, the Council is keeping a close eye on the project designed to develop a “Standard Benefits Model”, which was initiated by the BMU.¹⁷

¹⁶ The Joint Rules of Procedure of the Federal Ministries (GGO) only require an identification of compliance costs. The GGO do not make statements on the benefits of a regulation. It is therefore up to the Ministries to decide whether to provide a quantified presentation of the benefits of a regulatory initiative or to confine themselves to a qualitative presentation.

¹⁷ The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety has commissioned the FHM Bielefeld University of Applied Sciences to carry out a study on the “Development of a Standard Benefits Model for Systematically Estimating the Benefits of Laws and Regulations on the Basis of a Sustainable Concept of Growth”. The results of the study are expected to be available in the spring of 2013.

V Programme of the Federal Government for a Reduction in Compliance Costs

1. Coalition Agreement between the political parties Christian Democratic Union (CDU), Christian Social Union (CSU) and Free Democratic Party (FDP)

In the coalition agreement dated 26 October 2009, the coalition partners have stipulated that, in addition to the relief to the business sector which had been the focus of attention of the 2006 government programme, the burden borne by the citizens and by public authorities shall likewise be taken into account in the future.

Among other things, the NKR was to be strengthened and its competences were to be extended to achieve this objective. This was done by the amendment of the NKR¹⁸.

Beyond 2011, **another demanding reduction target is to be set for the compliance costs as measured in their entirety**. Concrete possibilities are to be identified as to how the total measurable compliance costs for the business sector, the citizens and public authorities can be reduced by an **average of 25 per cent (net)** in the following areas:

- » planning and building law for infrastructure projects
- » tax declarations, accountability under tax and customs law
- » harmonisation of and reduction in the retention and evaluation periods under commercial, tax and social law
- » corporate commissioners
- » application for statutory benefits, especially for
 - start-up entrepreneurs and small businesses as well as companies facing imminent insolvency
 - individuals who require permanent care, are chronically ill or suffer from an acute serious illness
 - families and single parents
- » facilitation of the electronic submission of business registration notices

¹⁸ For further details refer to Chapter II.

2. Federal Government projects

On the basis of the provisions stipulated in the coalition agreement, the Federal Government has looked into the compliance costs incurred in the areas mentioned above:¹⁹

2.1 Planning and building law for infrastructure projects

The project “Planning and Building Law for Infrastructure Projects” started in October 2010. The survey is aimed at showing the measurable compliance costs of public authorities in three out of six selected phases of the process with regard to the construction of new local bypasses and motorway extensions.²⁰ Parallel, these findings are to be qualitatively compared with the planning processes of the other modes of transport, namely air, railway and waterways traffic. In addition, suggestions for improvement are to be developed and savings potentials are to be highlighted. The final report is currently being harmonised. It is to be published in autumn 2012.

2.2 Tax declarations, accountability under tax and customs law

The project was aimed at identifying the compliance costs resulting from working on and submitting a tax declaration.²¹ The identified compliance costs of taxpayers amount to an average process time of 230 minutes, while the administrative effort of the tax administration amounts to approximately 60 minutes.

Several results of the survey have meanwhile been taken into consideration.²² Moreover, the instructions on the completion of the 2012 income tax return were revised with regard to the language used and with the assistance of the Legal Language Editorial Panel of the Association for the German Language, so that texts difficult to understand for the citizens were replaced with understandable and modern formulations. The instructions on the completion of the income tax return were also revised with regard to their structure and layout, so as to visually emphasize changes in the language used. This revision was aimed at making the instructions more reader-friendly, at creating a clear layout and at improving the reader guidance.

Besides, it is important to the NKR that the legal regulations the instructions are based on are likewise revised for possible simplifications.

19 As far as they have been submitted, the project reports are available for download at <http://www.bundesregierung.de/Webs/Breg/DE/Themen/Buerokratieabbau/2012-06-22-projektbericht.html?nn=392426>.

20 Specifically, the compilation of preliminary draft documents needed for the check note, the preparation of the planning approval documents and the planning approval procedure shall be examined.

21 The survey concentrated on the employee tax assessment (income tax cover sheet and different annexes, such as the annex on income from employment or the annex on child support).

22 For instance, information on childcare costs as well as on the income and earnings of a child of full age, provided in the annex on child support for the 2012 assessment period, were streamlined in terms of content.

2.3 Harmonisation of and reduction in the retention and evaluation periods under commercial, tax and social law

The subject of this project was to identify the compliance costs resulting from the existing retention periods under commercial, tax and social laws. Besides, it was to be assessed whether a further harmonisation of the periods would result in a noticeable relief and how possible period reductions would affect the administrative process and public budgets. The annual compliance costs of the business sector, resulting from the retention obligations, total at approximately € 30 billion. These costs comprise the compliance costs (without bureaucracy costs) of approx. € 24 billion identified in the scope of the project, and bureaucracy costs of approx. € 6 billion, identified in the scope of the baseline measurement conducted in 2006. A reduction in the retention periods to seven years would result in a savings potential of approx. € 2.5 billion, while a reduction to five years would result in a savings potential of approx. € 3.9 billion.

The NKR welcomes the fact that the project under the direction of the Federal Ministry of Finance (BMF) was conducted in a very timely manner and that specific quantified possibilities of simplification were presented. The project report thus could also serve as an important basis for the Federal Government's decision of 14 December 2011, concerning the reduction of retention periods under fiscal and commercial law to five years. Measures intended to achieve this objective were initiated in spring 2012. The Federal Government envisages in its 2013 Annual Tax Law that retention periods should be reduced to eight years as from 2013 and to seven years as from 2015. The NKR welcomed this initiative. At the same time, the Council assumes that the Federal Government will continue to stick to the self-set goal of the key issues paper of December 2011.

2.4 Corporate Commissioners

In the scope of this project, the statutory nomination of various commissioners (to include the immission control commissioner, the waste management commissioner, the dangerous goods officer and the commissioner for the disabled) was examined. Based on this project, the methodology used to present the compliance costs was examined with regard to its practicability. The authors of the final report, submitted in May 2011, come to the conclusion that there is no considerable potential for reducing the costs of bureaucracy. They also explain that the compliance costs can be identified in a plausible manner, using the Federal Government's methodology. Nevertheless, their identification is much more time-consuming than the identification of the costs of bureaucracy.

2.5 Applications for statutory benefits for start-up entrepreneurs and small businesses as well as companies facing imminent insolvency

This project has not yet been realized. Although it was investigated which benefits might be considered for examination as a matter of principle, further steps have not yet been taken. The Federal Ministry of Economics and Technology (BMWi) and the Federal Ministry of Labour and Social Affairs (BMAS) currently see no additional value in such a project. The Federal Ministry of Economics and Technology (BMWi), for instance, conducted a comprehensive evaluation of its funding programmes in 2011. In addition, a funding controlling system is currently being established, which will also give due consideration to compliance costs in the future. By means of the Act on Improving Chances of Integration into the Labour Market, the Federal Ministry of Labour and Social Affairs (BMAS) has conducted a sweeping reform of labour market instruments with regard to their efficiency and effectiveness. For the reasons stated above, the Federal Government intends to examine, along with representatives of the trade associations, the situation of start-up entrepreneurs in the scope of the project "Start-up Coaching".²³

2.6 Application for statutory benefits, especially for individuals who require permanent care, are chronically ill or suffer from an acute serious illness

This project was aimed at examining whether and how statutory benefits for individuals who require permanent care and individuals who are (chronically) ill can be granted in a faster, easier and more cost-effective way. The survey concentrated on the living conditions of a person who is no longer gainfully employed and for the first time submits an application for nursing care. The application procedures for eleven different benefits were examined. In addition, the burden resulting from the nursing care documentation was investigated. The final report will probably be submitted in autumn 2012.

It is beyond comprehension that the final report is to be published only after the Nursing Care Reorientation Act will have been adopted by the Cabinet and will have been discussed by the Health Committee of the German *Bundestag* so that the results can no longer be taken into consideration. This shows that there still is potential for improvement in coordinating governmental activities.

2.7 Application for statutory benefits for families and single parents

In keeping with the coalition agreement, the Federal Government is to conduct a project titled "Application for Statutory Benefits, Especially for Families and Single Parents". Even almost three (!) years after the adoption of the coalition agreement, an object of survey has not yet been defined. This is incomprehensible.

²³ For further details refer to Chapter V.3.

2.8 Facilitation of the electronic submission of business registration notices

In the scope of this project, the measurable compliance costs in their entirety, incurred in connection with the registration, re-registration and deregistration of a business, were to be identified. The survey concluded that the annual compliance costs amount to approx. € 87 million. Approx. 80 per cent of these costs occur in the business sector, the remaining 20 per cent occur in public authorities. The final report, submitted in July 2011, comes to the conclusion that two thirds of those questioned on possible simplification potentials are in favour of an online submission without any media discontinuities.

From the NKR's point of view, an option for a submission without media discontinuities might consist of municipalities offering a form that can be filled in online. The necessary proof of identity might be effected by means of the electronic identity (eID) function of the new personal ID card or the electronic residence permit.²⁴ Businessmen thus could save travel and waiting times as well as postage. All in all, the business sector might thus be relieved by up to € 18 million a year.

So far, a written business registration notice has been deemed necessary in the administrative practice. In consequence, a qualified electronic signature has been considered necessary for electronic transmission. The eGovernment Act is to make clear now that a signature field on a form does not necessarily require a signature in writing. If a form is to be electronically transmitted to the authority, the signature field is considered not applicable.

From the NKR's point of view, municipalities should take this clarifying regulation as an opportunity to review their respective administrative practices and to implement this potential for simplification.

2.9 Conclusion

All in all, the above projects present a heterogeneous picture. One of the projects is still in its infancy even three years after the relevant decision was adopted by the Federal Government, whereas in the case of other projects final reports have been submitted. Currently it cannot be said in how far final reports on all projects can be submitted by the end of the legislative period. It is also uncertain in how far an implementation of further project results can still be expected.

Regardless of the fact that some very promising results could be achieved (e.g. in examining retention periods or the filing of tax returns), the current implementation level of the projects indicates that **the original objective of reducing the compliance costs by 25 per cent in the eight areas above was probably overly optimistic.** In the opinion of the NKR, this is partly

²⁴ Cf. Vitako – Bundesarbeitsgemeinschaft der Kommunalen IT-Dienstleister e.V. (2012): Positivliste elektronische Prozesse, page 16f and Chapter VIII.

due to the choice of the areas to be examined as well as to the fact that the experience so far gained with compliance costs is limited.

Nevertheless, the NKR welcomes the conduct of such surveys by the Federal Government as they yield new information on compliance costs in the relevant areas of politics and the law, and enable the development of simplification measures for the reduction of these costs. At the same time, a **stringent line of action** would indeed be **appropriate** for such targets resulting from a coalition agreement.

3. New work programme of the Federal Government

On 28 March 2012, the Federal Government decided on the new "Work Programme on Better Regulation". By means of this programme, the Federal Government pursues the **objective of permanently keeping the burden low for the business sector, the citizens and public authorities**. Besides, transparency, comprehensibility and an early involvement at the national and European levels as important characteristics of a good regulation should become more important.

3.1 Examination of compliance costs in different areas

The work programme stipulates that the compliance costs be examined with the objective of lowering the costs as much as possible, in particular in the following areas of life and law:

- » optimisation of reporting methods in the field of social security
- » reduction of the burden resulting from filing and processing applications in connection with drawing social security benefits under fiscal and social law
- » improvement of electronic invoicing between the business sector and public authorities
- » non-profit work in different legal organisation forms and commitment to voluntary work
- » implementation of the educational package (in the scope of the project initiatives already initiated by the Federal Ministry of Labour and Social Affairs (BMAS))
- » electronic certificates and procedures with regard to duties and taxes in shipping

Moreover, in cooperation with the trade associations and with the participation of the competent authorities and the NKR, procedures are to be examined in the following areas:

- » establishment of a business: process from the business concept up to the first turnover
 - » employees: standardisation and issuance of pay slips as needed
 - » cross-border trade (also in the European Union): cooperation with different authorities
-

- » taxation: from self-assessment up to the settlement of tax liabilities
- » accounting: up-to-date organisation of electronic accounting procedures

First results from the above examinations will be available in spring 2013. On the basis of these results, the Federal Government would then like to formulate additional reduction targets for compliance costs as measured in their entirety.

The NKR welcomes the fact that the Federal Government has placed on the agenda the obligation set down in the coalition agreement to determine “another demanding reduction target for compliance costs as measured in their entirety” for the period after 2011. However, unlike the 2006 government programme, which included the quantitative target of reducing the costs of bureaucracy by 25 per cent, this target is merely described in terms of quality in the present work programme: The burden placed on the citizens, the business sector and public authorities shall be kept “permanently at a low level”. The **lack of a quantitative reduction target** is justified with the explanation that the existing basis of experience concerning the development of compliance costs and possibilities of reducing them is not yet sufficient. In addition, a baseline measurement for the identification of the current total compliance costs would mean a disproportionate effort. The NKR shares the view of the Federal Government that **those requirements are not given at present** and that additional experience must be gained for a start. As soon as a pertinent basis of experience exists, the issue of a quantitative target should be raised again, since the quantitative reduction target has – during the first five years of the government programme - considerably contributed to the programme’s success as far as the bureaucracy costs were concerned.

Regardless of this, it is to be considered positive that the Federal Government is making **additional efforts** to reduce the compliance costs. These efforts are **needed to relieve the citizens, the business sector and public authorities of any unnecessary burden**.

The areas of examination listed above differ with regard to their expression in concrete terms. Thus, the work programme does not yet allow a final assessment of the areas chosen to be examined. Nevertheless, it is positive that the areas to be examined include such, for instance the reporting methods in the social security scheme, which concern a large number of addressees, so that many of the parties involved would profit from relief measures.

The **NKR considers it beneficial** that the Federal Government adopts the approach of **minimising burdens by examining concrete areas of life and the law**, an approach the NKR had already chosen in the past.

The new form of cooperation, initiated as part of the work programme, between trade associations and ministries with the participation of the Better Regulation Unit and the NKR is welcomed as well. However, no concrete and advanced project ideas for identifying and reducing compliance costs have been presented as yet in the joint working groups. This is a disappointment. Additional efforts are required by all parties involved.

3.2 Standardised evaluations of regulations in force

On the basis of a new procedure, the Federal Government envisages a standardised evaluation of major regulation projects in the future. After a specific period of time following the entry into force of a regulation, the Federal Ministry in charge is to examine to what extent the compliance costs identified at the time the regulation was adopted have proven to be correct in retrospective. By the end of the third quarter of 2012, the structure of this procedure is to be developed, followed by the first pilot projects.

The NKR welcomes the fact that, in the future, the compliance costs identified at the time a regulation was adopted shall be examined subsequently in a standardised manner. This method which has already been applied to the costs of bureaucracy substantiates the original estimate, on the one hand, while it provides valuable insights for future estimates of costs, on the other.

The NKR calls upon the Federal Government to deal not only with the issue of validating the original estimate of the compliance costs, but also with the question of whether and to what extent the objectives pursued by the act have actually been achieved. This is a must in the opinion of the NKR because the attainment of targets and objectives, that is, the benefits of a regulation, is closely and inextricably linked with the resultant burden. While it is helpful to know about the burden caused by a regulation, it is crucial to first answer the question as to whether the political objectives and expectations pursued by the regulation have been attained. If that is not the case, the burden caused by the regulation will become pointless, too. It is therefore obvious that the burden and the achievement of objectives should be evaluated together ex post. The NKR calls upon the Federal Government to lay down assessment criteria already with the adoption of a law. On the basis of those criteria, government departments will conduct a subsequent evaluation.

3.3 Intensifying the cooperation with Federal states, municipalities and self-administrating bodies

Besides, the Federal Government would like to intensify the cooperation with the Federal states, municipalities and self-administrating bodies. Connections between the regulations at the different levels are to become clearer.

The NKR welcomes these endeavours by the Federal Government. Many regulatory initiatives do indeed not only entail **administrative burdens** at the Federal level, but also **at the levels of the Federal states and municipalities**. A closer exchange of information is necessary to be able to take into account these burdens in the scope of coordinating the regulations at the Federal level.

For this reason, the NKR has recently discussed with the umbrella organisations for local authorities how the **burden placed on the municipalities** can be taken into account in an appropriate manner in the respective presentations. It is crucial that the burden placed on the municipalities and on the Federal states will be **identified in accordance with the methodology laid down in the guidelines**, as this is the only way to achieve consistent results. It is also important that the burden identified by the Federal states and municipalities finds its way into the respective draft regulation in the scope of the existing legislative process. This is the only way to make substantial contributions to measuring and reducing the compliance costs for the Federal Government, the Federal states and the municipalities.

3.4 Index of bureaucracy costs and presentation of the development of compliance costs

Other measures taken by the Federal Government include the introduction of an index of bureaucracy costs. In the future, changes in the bureaucracy costs of the business sector will be presented by using this index on the basis of updated data provided by the Federal Statistical Office.

The NKR welcomes the fact that the Federal Government will **continue to take into account the costs of bureaucracy**. It is the Council's understanding that the index of bureaucracy costs will be published at regular intervals. Otherwise there might be a risk that the success of the past few years in reducing the costs of bureaucracy will be nullified again by burdens resulting from new or extended information obligations. The NKR calls upon the Federal Government to also introduce an index for the compliance costs of the business sector, public authorities and the citizens which makes transparent the development of the costs resulting from current legislation.

VI Projects of the NKR Intended to Reduce Existing Burdens

1. Completed projects of the National Regulatory Control Council

In the past few years, the NKR conducted a number of projects across all levels, i.e. projects dealing with the implementation of Federal laws on all three levels, namely on the Federal, state and local levels.²⁵ In spring of this year, the NKR evaluated the implementation status of the proposed simplification measures.

1.1 Projects “Facilitating the Application for Parental Allowance” and “Facilitating the Application for Housing Allowance”

In spring 2009, the Federal Government and the NKR examined, in collaboration with the Federal Statistical Office and selected Federal states and municipalities,²⁶ the processes of parental and housing allowance benefits from filing an application up to the issuance of an administrative decision by the competent authority.

Both applications are information obligations under Federal law. The benefits are paid by the Federal states and/or the municipalities. The surveys were aimed at identifying bureaucratic burdens and their causes, and at developing simplification measures and/or service offers which result in a relief of the citizens and public authorities. Approaches for improvements were identified by questioning citizens as well as employees at parental and housing allowance offices.

The most important suggestion for improvement with regard to parental allowance, for which the Federal Government is responsible, consists of simplifying the calculation of income. According to that, standard amounts shall be deducted in the scope of the income determination. This proposal will be implemented with the draft of the “Act on Simplifying the Implementation of the Parental Allowance Programme”. The draft law has already been approved by parliament. The law came into effect in September 2012.

²⁵ The project reports are available for download at <http://www.normenkontrollrat.bund.de/Webs/NKR/DE/Projekte/projekte.html>.

²⁶ The Federal States of Bavaria, Brandenburg and Northrhine-Westphalia, the City of Cottbus, the Administrative Districts of Dahme-Spreewald, Elbe-Elster and Oberhavel, the State Capital of Potsdam, the Administrative Districts of Düren and Heinsberg, the City of Münster and the Administrative District of Rhein-Sieg participated in the parental allowance project. The Federal States of Brandenburg, Lower Saxony, Nordrhein-Westfalen and Schleswig-Holstein, the Cities of Braunschweig, Düsseldorf, Falkensee, Fürstenwalde, Kiel, Kleve, Luckenwalde, Lübeck, Melle and Potsdam as well as the Social Centres of Husum and the surrounding area and of Niebüll participated in the housing allowance project.

As for the housing allowance, the suggestions for simplifying the implementation of the housing allowance programme, for which the Federal Government is responsible, have largely been implemented. For instance, the data protection directives were formulated more clearly, and a clearer dividing line was drawn between housing allowance and other social benefits. In addition, the website of the Federal Ministry of Transport, Building and Urban Development (BMVBS) now offers lists with income limits, which enable citizens to find out whether they might be entitled to housing allowance as well as the respective amount of housing allowance.

Other proposals made in connection with the two projects, for which the Federal states and the municipalities are responsible, were either already practiced by the stakeholders, were in the stage of implementation, were not deemed useful and/or were not implemented because of a lack of resources.

The **cooperation between the different implementation levels** during the examination of the processes turned out to be **useful**. The Federal Government should continue its successful cooperation with the Federal States and the municipalities in the scope of additional projects intended to simplify the implementation of administrative work.

1.2 Project “Federal Training Assistance Act” (BAföG)

In 2009 and 2010, the NKR examined the procedure for receiving a grant under the Federal Training Assistance Act (*BAföG*) in cooperation with the Federal Government, eight Federal states²⁷ and 14 grant-paying authorities²⁸ and with the assistance of the Federal Statistical Office. By means of this examination, it was possible to develop numerous proposals for simplifying the *BAföG* procedure.

In view of the large number of students concerned – approx. 500,000 students receive *BAföG* - the NKR focuses on the implementation of these proposals. For that reason, two years after the publication of the *BAföG* report, the NKR examined to what extent the recommendations were accepted and where action still needs to be taken. Reviews with the Federal Ministry of Education and Research (BMBF), the Federal states and the German National Association for Student Affairs showed that about half of the proposals, such as the lump-sum calculation of the rent subsidy and the abandonment of the proof of language skills in connection with student funding for studies abroad under the Federal Training Assistance Act, have been implemented at the Federal level. Depending on the Federal states, there are significant differences in the level to which the various projects have been implemented.

In June 2012, the NKR organised a *BAföG* workshop to which representatives of student organisations and of public authorities were invited to discuss the further need for simplification.

27 Bavaria, Baden-Württemberg, Brandenburg, Hamburg, Hesse, Rhineland-Palatinate, Saxony and Thuringia.

28 Regensburg, Würzburg, Karlsruhe, Frankfurt/Oder, Potsdam, Hamburg, Darmstadt, Frankfurt/Main, Gießen, Kassel, Marburg, Trier, Dresden, Jena.

This workshop came to the conclusion that the relief effect of the measures taken so far still is insufficient, and that further debureaucratisation is urgently needed in a number of areas.

In July 2012, the NKR published the individual results in an interim assessment.²⁹ First of all, BAföG itself must be made “fit for the Bologna process”. For instance, the necessity of submitting a proof of qualification for the continued receipt of BAföG after the fourth semester has become questionable in view of the fact that Bachelor students have a standard period of study of six semesters. A less bureaucratic solution should be considered in this respect, a solution which does not even rule out to completely abandon the proof of qualification. Moreover, the lump-sum recognition of health insurance contributions already called for in the scope of the 23rd BAföG revision has not yet been addressed by the Federal Ministry of Education and Research (BMBF).

With regard to the readability of application forms as well, there still is substantial room for improvement, as the workshop with student representatives clearly showed. “Officialese” should be avoided and the explanations regarding individual text fields should contain practical examples. In the opinion of the NKR, this field of action holds considerable simplification potential for the BAföG procedure. After all, the easier to understand the forms are, the fewer queries will be made and the less time will be needed for processing the forms.

More efficiency for all parties involved is also provided by the online application procedure. The applicant will immediately be informed if data is implausible or an application is incomplete, and which supporting documents need to be attached. Mistakes in transferring the data by the grant-paying authorities are avoided – which on the whole is a real “win-win situation” for students and authorities. So far only two Federal states (Bavaria and Hesse) are offering an online application. Hamburg will introduce it with the 2012/2013 winter semester. A nationwide introduction in all Federal states is absolutely desirable and possible in the opinion of the NKR. The full relief potential of the online application and its electronic processing will become effective, though, only when it is possible to submit the entire application electronically. The eGovernment Act is an important step in this direction.

The **NKR** sent its **interim assessment** to the competent authorities at the Federal and State levels and called upon them to once more revise the Federal Training Assistance Act (BAföG) by the end of this legislative period and to implement as soon as possible all measures needed for another **debureaucratisation of the BAföG implementation**, and above all to complete the revision of the BAföG administrative provisions of the Federal Government which have not been amended since 2001. In view of **different IT solutions at the State level**, sufficiently compatible IT systems should ensure that the electronic processing of BAföG applications can be continued seamlessly even when the place of study changes or the studies are continued abroad. All in all, it is difficult to understand why the competent authorities have been so hesitant in realising such a real win-win situation.

²⁹ The interim assessment is available for download at <http://www.normenkontrollrat.bund.de/Webs/NKR/DE/Publikationen/publikationen.html>.

1.3 Project “Optimising Entry Procedures”

Last year, in cooperation with several Federal states³⁰, selected immigration authorities³¹, interested companies³², the German Cancer Research Centre and with the assistance of additional agencies³³, the NKR examined the process for issuing visa to foreign professional and managerial employees.³⁴

A major conclusion from the project is that the issuance of a visa along with a work permit usually takes six to eight weeks, although the processing time by itself is less than five hours. Among other things, the large number of authorities involved and the fact that paper documents from foreign countries are sent by mail were identified as major causes for the long processing time. The project report, which includes 35 proposals, shows how the entry procedures for foreign and managerial employees can be simplified and accelerated.

Between September 2011 and March 2012, a working group consisting of representatives of the Federal Government and of the Federal states examined the individual simplification proposals under the joint chairmanship of the Hesse Ministry of the Interior and the Federal Ministry of the Interior. In particular, the working group spoke in favour of abandoning the general involvement of immigration authorities, which was a major proposal contained in the project report. After all, the procedure can thus be reduced by up to 20 days. In April 2012, the Federal Ministry of the Interior initiated the respective amendment to the Ordinance Governing Residence so that it can come into effect as soon as possible. All in all, the working group came to the conclusion that about half of the proposals made in the report should be pursued. For the most part, these proposals relate to practical and technical improvements of the procedure which can be implemented by the competent authorities on their own responsibility, for instance, the establishment of information portals for enterprises and the consistent use of IT resources. A number of proposals are by now unnecessary due to the envisaged renunciation of involving the immigration authorities.

The entry procedures will be further simplified when the European directive on the employment of highly qualified personnel is transposed into national legislation in August 2012. By means of the new “EU Blue Card” residence title, the immigration of highly qualified manpower will be accelerated by renouncing the previously required reviews of the labour market by the Federal Employment Agency.

30 Hesse, Saxony, Baden-Württemberg and Rhineland-Palatinate.

31 Administrative Districts Bergstraße, Main-Taunus-Kreis, Rhein-Neckar-Kreis, State Capital of Dresden, City of Heidelberg, State Capital of Mainz, Cities of Mannheim and Worms.

32 BASF SE, Bayer AG, Bayer Direct Services GmbH, Commerzbank AG, Deutsche Lufthansa AG, Fragomen Global LLP, Deutsche Telekom AG, SAP AG, Siemens AG, Systematic Movement and Volkswagen AG.

33 Arbeitsgemeinschaft wirtschaftliche Verwaltung e.V., FrankfurtRheinMain GmbH, Metropolregion Rhein-Neckar GmbH, Federal Employment Agency, Federal Office of Administration as well as the German Foreign Office, the Federal Ministry of the Interior and the Federal Ministry of Labour and Social Affairs (BMAS).

34 The project report was published in September 2011. It is available for download at <http://www.normenkontrollrat.bund.de/Webs/NKR/DE/Projekte/projekte.html>.

The NKR welcomes the fact that the working group consisting of representatives of the Federal Government and of the Federal states intensely discussed the proposals and initiated the amendment to the Ordinance Governing Residence at such short notice. In the Council's opinion, there is further scope for simplification with respect to the **consistent use of IT resources and electronic data transfer**. The NKR will accompany the further implementation and review in particular to what extent the average time the issuance of a visa takes can actually be reduced by the steps taken.

1.4 Project "REACH"

According to the European REACH regulation,³⁵ manufacturers and importers are obliged to report the chemical substances used by them to the European Chemicals Agency (ECHA). By the end of 2010, over 20,000 registrations for approx. 3,400 substances had been conducted. Two additional registration tranches are to follow under the regulation of European law in 2013 and 2018. The first reporting round already resulted in an enormous bureaucratic burden on the concerned enterprises in Germany.

Against this background, the Federal Minister of the Interior and the NKR agreed in the middle of 2010 to examine these burdens in collaboration with the Chemical Industry Association, the Federal Institute for Occupational Safety and Health and the Federal Environment Agency.³⁶ The project was aimed at finding options for a reduction of bureaucratic burdens without interfering with the objective of the REACH regulation. For this reason, proposals which would have entailed a reduction in safety standards were as much out of the question as proposals concerning further requirements.

The joint project report was published in the autumn of this year.³⁷ The report

- » outlines the actual burdens on the enterprises concerned (resulting from the manpower required and the costs),
- » contains suggestions for an improvement of the assistance provided by national authorities and associations, and
- » provides starting points for possible simplifications and improvements for the responsible bodies at the European level.

Thus, important insights could be gained with this project. These shall now be introduced in the discussion on the REACH regulation at the European level, so as to make future notification processes, in particular the ones for the registration tranches pending in 2013 and 2018, as unbureaucratic as possible.

³⁵ REACH = Registration, Evaluation, Authorisation and Restriction of Chemicals.

³⁶ The Federal Statistical Office (StBA) and the Federal Institute for Risk Assessment (BfR) were involved in an advisory capacity.

³⁷ The complete report is available for download at www.normenkontrollrat.bund.de.

1.5 Conclusion

In the opinion of the NKR, the **examination of procedures** in the scope of projects has **proved to be successful**. For instance, the simple exchange of information about the implementation across the different implementation levels has already proved to be profitable for all stakeholders. The result reports show that in the scope of such projects a variety of **proposals** can be developed to **noticeably reduce existing burdens**.

The NKR **calls upon** the Federal Government to **review and implement**, in a timely manner, **proposals** made in the scope of the afore-mentioned projects which are still pending implementation. The NKR will continue to keep an eye on and examine to what extent simplification proposals made in the scope of the projects “Optimising Entry” and “Federal Training Assistance Act” (BAföG) are being implemented. The NKR wants to continue to initiate projects. For this reason, it currently prepares the project described in Chapter 6.2 and looks into the possibility of realising additional projects.

2. New Project “More Time for Treatment – Simplification of Procedures and Processes in Doctors’ Surgeries”

The NKR intends to conduct the Project “More Time for Treatment – Simplification of Procedures and Processes in Doctors’ Surgeries” in cooperation with the Federal Ministry of Health (BMG), the Better Regulation Unit, the Federal Statistical Office (StBA), the National Association of Statutory Health Insurance Physicians (KBV) and the National Association of Statutory Health Insurance Dentists (KZBV) as well as the National Association of Statutory Health Insurance Funds. This project aims at presenting the bureaucratic burden in doctors’ surgeries which arises in particular from documentation and accounting. Moreover, the project is to develop proposals for simplification and highlight savings potentials. It is planned to complete this project by the summer of 2013.

3. Providing support for projects that offer an important potential for bureaucracy reduction

The NKR will continue to support selected projects that offer an important potential for bureaucracy reduction. This includes, among other things, the project “Vehicle Systems”, which has been conducted as a joint Germany Online Project by the Federal Government and the Federal states under the direction of the Free and Hanseatic City of Hamburg since 2006.³⁸ On the basis of the introduction of online procedures for taking vehicles off the road and registering them again, it is now planned to develop online solutions for the whole process of motor vehicle registration. The NKR welcomes this project especially because of its high relief potential. If this project is consistently promoted, it might result in an **appreciable relief to millions of citizens**.

³⁸ Further details are available at www.it-planungsrat.de/kfz-wesen.

VII Reducing Compliance Costs through eGovernment

1. Simplification potentials of eGovernment

In the first mandate term, the NKR took a close look at the subject of eGovernment, paying particular attention to the information obligations incumbent on the business sector. Here eGovernment has shown itself to be an indispensable tool for an effective reduction in bureaucracy. So, for instance, about **50 per cent of the relief to the business sector from the costs of bureaucracy is attributable to simplifications entailed by the use of digital IT.**³⁹

Top 10 relief measures as a result of the use of IT*	
Measure	Relief in Million €
Simplification of electronic invoicing (2011 Tax Simplification Act)	4,043
Creation of an integrated, fully automated registration and contribution procedure for social security	749
Introduction of electronic tax deduction features (2008 Annual Tax Law)	236
Conversion of the notification of the delivery of a drug in accordance with § 12 of the Narcotic Drugs Act (First Ordinance Amending the Ordinance on the Domestic Trade in Narcotic Drugs)	119
Simplifications due to e-passports (Act on Identity Cards and Electronic Proof of Identity and on the amendment of other regulations)	128
Permissibility of electronic data transmissions (First Ordinance on the Amendment to Legal Provisions Pertaining to Radiation Protection)	104
Changeover from paper and publications of annual financial statements/updates in the print Federal Gazette to a mandatory online submission and general publication in the electronic Federal Gazette (Amendment of the Electronic Commercial Register, Cooperative Society Register and Company Register Act)	53
Obligatory electronic filing of business tax returns instead of the paper version used so far (Tax Bureaucracy Reduction Act)	37
Abolition of paper-based records to be submitted by the employer in the registration procedure (Second Act on the Amendment of the Volume IV of the Code of Social Law and other acts)	31
Obligatory electronic filing of corporate tax returns instead of the paper version used so far (Tax Bureaucracy Reduction Act)	17
Total	5,517
* Figures are in millions Euro.	

Even though the use of IT has already brought significant relief to citizens, enterprises and pu-

³⁹ The administrative costs of the 50 most costly information obligations incumbent on the business sector have been reduced by a total of 11 billion Euro since 2006. About half of this can be allotted to eGovernment and IT measures.

blic authorities, the **options offered by eGovernment have not at all been fully exploited in Germany**. To the citizens, this became apparent especially in the “Facilitating the Application for ...” projects of the NKR.⁴⁰ One of the central suggestions for improvement from the project on the Federal Training Assistance Act was, for instance, the introduction of an online application form without any media discontinuities. To date, only a few Federal states offer an online application form, i.e. a form retrievable on the internet and featuring intelligent guidance on completing the form. Here, too, the potential of an online procedure without media discontinuities has not yet been fully exhausted, as the form still needs to be submitted as a paper copy due to the required signature.

2. Objectives of the National Regulatory Control Council in the field of eGovernment

The NKR therefore intends to increase the use of eGovernment for the implementation of regulations under Federal law in order to achieve a reduction in compliance costs for the parties involved in the procedure.

The Council focuses on the following **fields of action**:

- » **review within the scope of the ex-ante procedure** whether the use of electronic procedures could reduce compliance costs
- » **optimisation of existing administrative procedures** within the framework of (inter-agency and multi-level) projects

Therefore, the NKR held a series of expert talks with representatives of the IT Staff and the Directorate General for Administrative Modernisation of the Federal Ministry of the Interior, science (Prof. Dr. Brüggemeier und Prof. Dr. Tino Schuppan) and IT experts from enterprises, among others.

3. Dialogue with the IT Planning Council

The close information exchange and cooperation with the **IT Planning Council** is of particular importance to the NKR. Due to its tasks, the IT Planning Council plays a **key role in the development of eGovernment in Germany**. In view of the existing distinct executive federalism, the success of an efficient use of eGovernment depends on the employment and coordination of IT procedures and projects across all levels.

In November 2012, representatives of the IT Planning Council and the NKR will hold a joint workshop. The aim of this workshop is to initiate an exchange of information and to identify specific fields of action for potential cooperation. From the perspective of the NKR, cooperati-

⁴⁰ See Chapter VI.

on would be particularly useful in implementation issues coming up in the ex-ante procedure. However, joint projects on reducing compliance costs in a federal nation by using IT are conceivable as well.

4. Improving the framework conditions for eGovernment in Germany – the eGovernment Act

As concerns eGovernment, Germany lags behind its opportunities. This is mainly due to the legal framework conditions and the fact that many important IT infrastructures in public authorities have not been implemented as yet.

Against this backdrop, the Federal Government developed a draft act on eGovernment. The act aims at facilitating electronic communication with public authorities by removing obstacles posed by Federal law. This way, the act is intended to be effective across the Federal levels and enable the Federation, the Federal States and the municipalities to offer simplified, more user-friendly and more efficient electronic administrative services.⁴¹

The current draft serves two purposes:

- » The legal requirement of the written form shall be dispensed with to a much greater extent than before. Besides the qualified electronic signature, the eID function of the personal ID card or the electronic residence permit shall be usable for authentication. The written form shall also be replaceable by a De-Mail confirmed by the sender.
- » In addition, the act is intended to support the use of modern information and communication technologies, especially in the Federal administration. For example, the draft provides minimum standards for IT infrastructures and eGovernment applications in the Federal administration.⁴² Furthermore, a general obligation for Federal authorities to apply electronic filing is planned.

The NKR therefore expects the Federal Government to examine existing legal requirements to use the written form and to maintain those only in absolutely essential cases. The Council welcomes the fact that the alternatives for authentication in the form of the qualified electronic signature will provide much more cost-effective and user-friendly options for the legally secure electronic communication with public authorities. **In addition, the NKR expects the eGovernment Act to be implemented swiftly and, in particular, a centrally coordinated changeover of the IT structure at the Federal level as defined by the eGovernment Act.**

41 Statements on the ministerial draft bill prepared by the Federal Government on the act to support electronic administration and on the amendment of further regulations (eGovernment Act), as of 26 June 2012, page 2.

42 These include, among other things, regulations governing the electronic access to authorities, the electronic identification as well as the electronic submission of certificates.

5. Avoidance of unnecessary bureaucracy by means of an effective use of eGovernment – application of an IT checklist in the Ex-ante procedure

To prevent unnecessary bureaucracy from developing in the first place, the legislative process should already be clear on the implementation of new regulations to the extent possible. This applies, in particular, to new regulations having influence on existing eGovernment processes or to the possible implementation of new procedures using eGovernment.

Therefore, the NKR focuses on examining new regulation projects for their compliance with eGovernment. To achieve this, the NKR is presently developing a checklist to be applied within the framework of the ex-ante procedure, especially with regard to the examination of alternatives. This will allow the NKR to more systematically examine if and to which extent new regulations contain obstacles which would complicate or even prevent the use of eGovernment, and how they could be removed. The main focus could be on the following topics:

- » legal framework conditions, for instance, with regard to the legal requirement of the written form;
- » existence and use of existing IT infrastructure (such as new personal ID card, De-Mail);
- » requirements for interagency coordination across all levels;
- » entry into force of and period for the implementation of the IT procedures.

The aim of the NKR is to generate more transparency of the expected administrative execution and to indicate options for an efficient implementation.

VIII Stock-taking Concerning the Reduction in Bureaucracy Costs

1. 2006 Programme of the Federal Government

In 2006/2007 the Federal Government has set itself the aim to reduce the costs of bureaucracy for information obligations under Federal law incumbent on the business sector by 25 per cent by 2011.⁴³ To determine the base point for this aim, the Federal Statistical Office and the Federal Ministries jointly examined the bureaucracy costs incumbent on the business sector as of 30 September 2006. This baseline measurement totalled about 9,500 information obligations⁴⁴ with a burden of more than € 49 billion.⁴⁵

2. Stock-taking after five years

Since 2006 the Federal Government has made great efforts and implemented a large number of individual measures to reduce bureaucracy costs. Major simplification measures include, among others

- » simplifications in electronic invoicing (- € 4 billion),
- » the abolition of balance and accounting obligations and of the obligation to perform a reporting-date measurement in accordance with the Commercial Code for about 500,000 enterprises (- € 2.5 billion), and
- » the introduction of an automated registration and contribution procedure for social security and the abolition of paper-based records to be submitted by the employer in the registration procedure (- € 800 million).

Altogether, this allowed a reduction in bureaucracy costs for the business sector by **almost € 11 billion on balance** by the end of 2011. This corresponds to a net relief of around **22 per cent** compared to 2006.

This reduction in bureaucracy costs by approx. € 11 billion is quite respectable – also in an international context – but the Federal Government has **not achieved its self-set aim (- 25 per cent) completely as yet**. Further efforts need to be made.

⁴³ This aim was reaffirmed by CDU, CSU and FDP in their coalition agreement of 26 October 2009.

⁴⁴ Including EU and international law implemented at national level.

⁴⁵ Federal Government Report 2011, A Foundation for Better Law: Five Years of Bureaucracy Reduction and Better Regulation, April 2012, page 18.

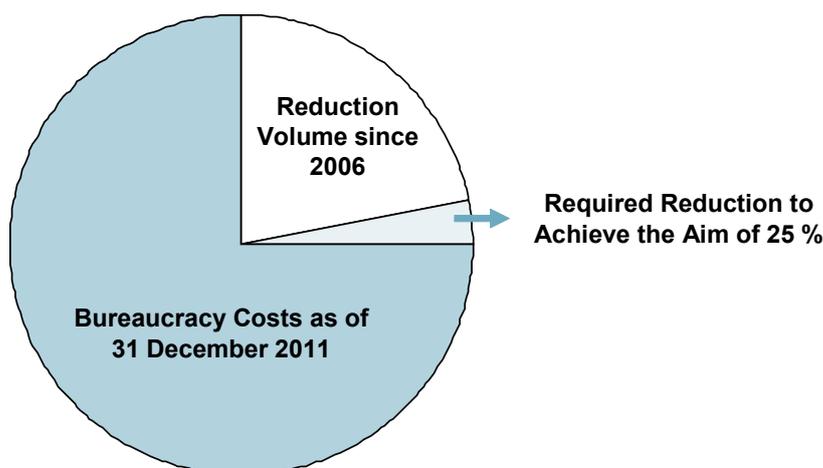


Fig. 7: Reduction balance by 31 December 2011

3. Key Issues Paper to achieve the 25 per cent target

As the target has not been achieved, the Federal Government, on 14 December 2011, in a Key Issues Paper decided on nine packages of measures to further reduce bureaucracy costs.

Two out of the nine packages of measures listed in the paper have been **completely implemented** so far. These are the Amendment of the Population Statistics Act with a relief volume of €1 million and the Amendment of the Act against Restraints of Competition with a relief volume of € 0.5 million.

Two other packages of measures have been implemented in part:

- » On 23 May 2012, the Federal Government adopted the 2013 Annual Tax Law. The act comprises a gradual reduction in the retention periods for enterprises as defined by commercial and tax law to eight years initially, and to seven years from 2015 on. This will lead to a reduction in compliance costs for the business sector by € 2.5 billion, however, it will not reduce the bureaucracy costs resulting from information obligations. Accordingly, this measure does not contribute towards achieving the 25 per cent target. Furthermore, the package of measurements in the Key Issues Paper comprises the provision of further incentives for the electronic filing of invoices and other documents. The corresponding implementation is still pending.
- » Moreover, the Key Issues Paper stipulates that the reform of long-term care should result in less bureaucracy. On 28 March 2012, the Federal Government adopted the draft statute on the reorientation of long-term care insurance, which would, however, increase the bureaucracy costs incumbent on the business sector by approx. € 4 million. Several simplification proposals by the ombudsperson for the debureaucratisation of long-term care have now been included in the parliamentary procedure. However, these measures

were not quantified so that it is not possible to predict whether the law as a whole will reduce bureaucracy costs.

Implementation status of the other packages of measures:

- » Two measures are to be implemented along with the eGovernment Act:
 - a) Reduction of the legal requirement of the written form, introduction of alternatives to the qualified electronic signature as well as the use of the process data accelerator;
 - b) Amendment to the Vocational Training Act and the Handicrafts Code.

According to the Key Issues Paper, their relief potential amounts to € 450 to € 550 million in total. In September 2012, the Federal Cabinet adopted the draft of the eGovernment Act. However, the relief volume only adds up to approx. € 208 million.

- » In its Key Issues Paper "2012 Corporate Tax Reform", the Federal Government has reaffirmed its intention to deregulate the law on travel expenses contained in the package of measures named "Simplification and harmonization of requirements to financial and payroll accounting". On 19 September 2012, the Federal Cabinet adopted a draft statute for the reform of the law on travel expenses. The fiscal regulations for transportation costs, additional expenses for food, and accommodation costs are simplified.

Additional draft statutes and regulations for the implementation of the Key Issues Paper have not been initiated by the Federal Government as yet. Consequently, the following issues from the Paper are still outstanding:

- » the preferred use of published company data (relief potential between € 100 and € 150 million according to the Key Issues Paper), and
- » the introduction of the advanced electronic signature for enterprises (relief potential between € 100 and € 150 million according to the Key Issues Paper).

The following overview underlines that **further efforts need to be made**, especially since time is limited in this legislative period. **In addition to that, 22 regulatory initiatives have been adopted in 2012 that will result in a burden of € 150 million.** The requirements for the implementation of the 25 per cent reduction target will increase accordingly.

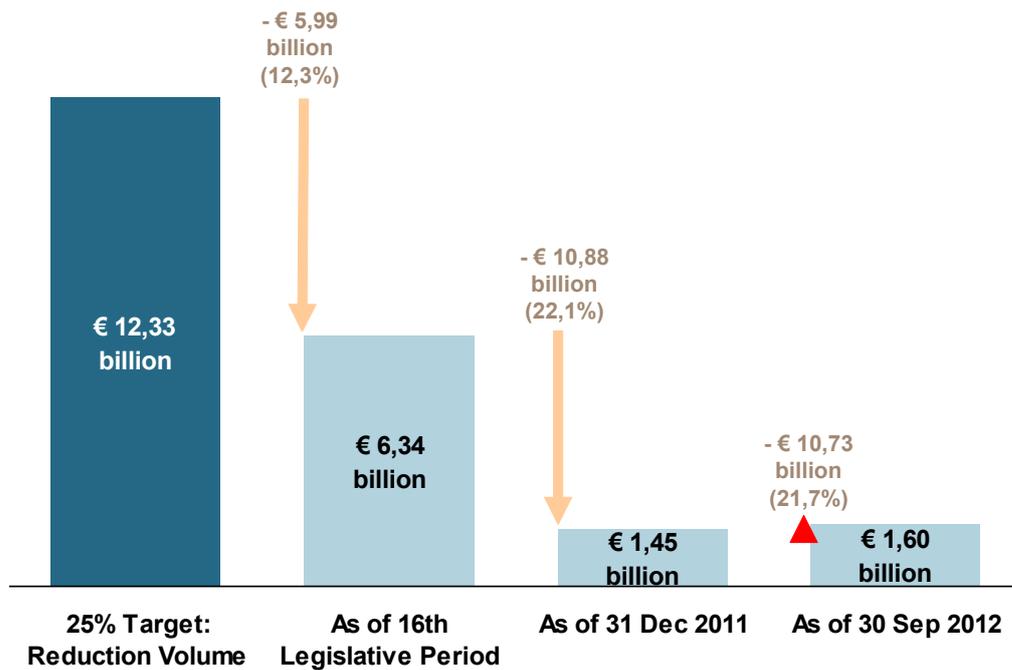


Fig. 8: Overview of reduction since 30 September 2006

Apart from that, the NKR welcomes the fact that the Federal Government will continue to monitor the development of bureaucracy costs in the business sector using the **index of bureaucracy costs** and, within the scope of the 2011 work programme, decided to take **additional measures this autumn, if necessary**, to keep bureaucracy costs at a constantly low level. The NKR supports and accompanies the action of the Federal Government. The Council will comment on this as soon as sufficient data and facts are available.

IX Reduction of bureaucracy at the EU and international levels

1. The significance of international regulations at the national level

The concepts of bureaucracy reduction and better legislation play a major role not only at the national level. They are also paramount in the European and international contexts. After all, it does not make any difference to the addressees of the regulations whether a burdensome regulation was issued at EU level, by Federal legislative authorities or a Federal State.

It therefore remains **indispensable that the Federal Government pays particular attention to an embodiment requiring as little burden as possible when negotiating new European regulations.**

In this context, the NKR welcomes the statement in the coalition agreement concluded between CDU/CSU and FDP that the leeway arising from the implementation of European law at the national level should be used in a way that limits the resulting burdens to the minimum.

The NKR has also taken a positive stance toward the “Development of the exchange of best practice with other member states for the national implementation of EU law” announced in the Federal Government’s work programme of March 2012. To ensure that this does not remain a mere declaration of intent, the Federal Government is supposed to present a concept by the end of the legislative period in order to **guarantee** a regular and – if possible – **standardised exchange.**

2. Activities at the European Level

2.1 The Action Programme of the European Commission

The Action Programme for Reducing Administrative Burdens launched by the European Commission in January 2007 will run until the end of 2012. The objective of the Action Programme is to reduce the bureaucracy costs resulting from information obligations by 25 per cent by the end of 2012. Within the scope of this programme, the bureaucracy costs resulting from 72 regulations and directives from 13 different areas of law were examined. The examination showed that the annual burden incumbent on the European business sector amounted to € 124 billion. The Commission then submitted proposals for reducing the bureaucracy costs by more than € 40 billion. If these proposals were adopted by the European Parliament and the European Council and implemented in the member states without any changes, the measured costs of bureaucracy would be reduced by about 33 per cent.

The NKR will provide a final assessment of the action programme of the European Commission upon the completion of that programme.

Examples of proposals for bureaucracy reduction from the Action Programme of the European Commission

1. Exemption of micro-enterprises from accounting obligations

In 2008, the Commission announced its plan to relieve micro-enterprises by exempting them from accounting obligations. The savings potential amounted to an estimated € 3.5 billion. The so-called Stoiber team (see below) had originally recommended more extensive exemptions which would have led to a relief of even € 6.4 billion. However, they were not entirely adopted by the Commission.

After time-consuming negotiations, the respective proposal for the exemption of micro-enterprises from European accounting obligations was finally adopted by the European Council and the European Parliament in March 2012. However, this proposal lags far behind the original announcements. Instead of granting the member states the permit to exclude certain micro-enterprises from the European accounting directives, only very limited facilitations were launched.* While this may lead to a relief at the European level, the relief potential for German micro-corporations are fractional, especially since the national commercial regulations already envisaged far-reaching facilitations for small corporations. The draft statute by the Federal Ministry of Justice for implementing the directive identifies savings of merely € 36 million for 500,000 enterprises concerned in Germany. Although the measures are leading in the right direction, the result is far behind the expectations of those concerned in view of the relief promised by the European Commission in the first place.

This case clearly illustrates why an initially intended relief of small enterprises is often not put into practice. Here, the interests of small enterprises were in the end subjugated to the interests of accounting firms that obviously have a powerful lobby in a number of member states. As a result, there is not much left of the widely announced relief to small enterprises.

* The proposal allows exemptions for micro-enterprises that meet two of the following criteria: an annual turnover of less than € 700,000, a balance sheet total of up to € 350,000, less than 10 employees.

2. Simplifications for crafts businesses concerning the use of tachographs

Die Europäische Last year, the European Commission acted upon the suggestion made by the German Confederation of Skilled Crafts (ZDH) to exempt certain crafts businesses from the obligation of using tachographs. To date, craft enterprises are obliged to use a tachograph for trips of 50 km or more. Unlike the simplification proposal submitted by the German Confederation of Skilled Crafts and the Stoiber team, which contained a limit of 150 km*, the proposal presented by the Commission was to increase this distance to 100 km. On the basis of contrary tendencies, the European Parliament recently suggested that all vehicles of 2.8 t or more must be fitted with a tachograph (instead of 3.5 t today). To many merchants and craftsmen who have not come under the scope of application of this directive as yet, this would be a great burden – that is, minor improvements accompanied by a substantial increase in bureaucracy. The NKR requests the Federal Government to speak up in favour of maintaining the original threshold of 3.5 t and increasing the distance limit to 150 km in the upcoming negotiations in the European Council. It must be avoided that relief proposals will be reversed to the opposite in the end.

* The original proposal by the German Confederation of Skilled Crafts could have relieved German crafts businesses by € 60 million to € 90 million per year.

2.2 Report on minimizing regulatory burden for SMEs – Adapting EU regulation to the needs of micro-enterprises

In November 2011, the European Commission published the “Report on minimizing regulatory burden for SMEs – Adapting EU regulation to the needs of micro-enterprises”. The aim of this paper is to identify and initiate measures relieving small, medium-sized and micro-enterprises from unnecessary bureaucratic regulations. To achieve this, evaluations shall be made more frequently, the integration of SMEs into the political decision-making process shall be improved and a so-called micro-test be introduced which is designed to examine the effects on micro-enterprises within the scope of the regulatory impact assessment. In this context, a “reversal of the burden of proof” shall apply: Implementing the principle “think small first”, the Commission intends to exempt micro-enterprises from the scope of application of future legislative proposals if it cannot be proven that their inclusion in the scope of application would be appropriate. Some of those exemptions of micro-enterprises have already been implemented. Examples include the EU Directive on waste electrical and electronic equipment (WEEE) which exempts micro-enterprises from the obligation to take back waste equipment.

The NKR supports the measures announced in the report. If – as determined by the Commission in the report – 99 per cent of all European enterprises are small or medium-sized, it would be logical to pay particular attention to these enterprises.

From the NKR’s perspective, however, it would be appropriate to **gear the legislative process to SMEs from the outset** instead of developing regulations for large enterprises first and then, as a second step, provide exceptional provisions for 99 per cent of those concerned.

2.3 Review of the Smart Regulation Approach

In October 2010, the European Commission adopted a communication on “Smart regulation in the European Union”.⁴⁶ In this communication, the Commission explains how to achieve the aim of only “regulating where it is necessary and with a minimum of cost”. For this purpose, the Commission intends to thoroughly examine the *Acquis Communautaire* in the respective regulation area prior to the promulgation of a new regulation. The results of these examinations are to be taken into account in the development of new regulation projects. At the same time, the opinions of the parties affected, which are obtained in consultations on new regulation projects, shall be taken into consideration to a greater extent.

To review this approach, the Commission conducted a public consultation from June through September 2012 in order to collect contributions from the interested public. Along with the other European independent councils (see below), the NKR participated in this consultation with a common position paper.⁴⁷

46 The communication is available for download under <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0543:FIN:EN:HTML>.

47 The common position paper is available for download under <http://www.normenkontrollrat.bund.de/Webs/NKR/DE/Projekte/projekte.html>.

The NKR appreciates that the Commission reviews its smart regulation approach. The Commission should make use of the results of the consultation to launch a **new ambitious programme for bureaucracy reduction and better regulation**. Such a programme is imperative to preserve the present achievements and provide further relief.

2.4 High Level Group of Independent Stakeholders on Administrative Burdens

Originally, the High Level Group of Independent Stakeholders on Administrative Burdens (HLG), the so-called Stoiber Team⁴⁸, had a three-year mandate and was restricted to supporting the action programme of the Commission. The Commission appointed the Chairman of the NKR, Dr Johannes Ludewig, to the HLG. In 2010, the HLG mandate was extended until the expiry of the action programme in late 2012 and expanded as well. Among other things, the HLG was tasked to prepare a report on best practice in member states to implement EU legislation in the least burdensome way by November 2011 (Best Practice Report). In addition, the team sought closer cooperation with stakeholders and the Commission agencies as well as a regular exchange on bureaucracy costs with the Deputy Secretary-General of the Commission and the chair of the Impact Assessment Board. This is necessary since, unlike in Germany, there is still no independent advisory body at the European level which analyses new regulations for follow-up costs before decisions are made.

Due to the expansion of the mandate, one focus of the HLG was on the preparation of the Best Practice Report last year.⁴⁹ The report titled “Europe can do better” was handed over to President Barroso in February 2012. It comprises 74 examples of particularly efficient implementations of European law involving minor bureaucracy costs and draws general conclusions from this in the form of a checklist. The examples contained in the report include, for instance, the Swedish solution of a single point of contact for the implementation of the Directive on Services, the prohibition of the multiple collection of data in Estonia, and the completely digitised system for public procurement in Portugal. Furthermore, the report includes examples of how better legislation might be well and efficiently organised in the member states. A central recommendation is to improve the exchange between the member states. Before implementing a directive, it should become routine for a member state to consider the solution of a comparable member state. Here, the Commission should provide support, for example, by maintaining a corresponding “implementation database”. During the hand-over of the report, President Barroso announced the extension of the mandate of the HLG until the end of his term of office in October 2014. The group was to focus on issues concerning small and medium-size enterprises and public authorities.

48 The team is headed by Dr Edmund Stoiber. It is composed of another 14 independent figures.

49 The report and a summarizing brochure are available for download under http://ec.europa.eu/dgs/secretariat-general/admin_burden/best_practice_report/best_practice_report_en.htm.

The NKR supports the work of the HLG and welcomes the extended mandate.

The NKR appreciates that the Federal Government analysed the Best Practice Report to find out which examples would be suitable for the German implementation of EU law. It is presently tested, for example, whether a website can be provided on which both enterprises and citizens can submit their comments on the type and scope of burdensome regulations. Moreover, the checklist for the implementation of EU law shall be explained in training courses. **The NKR expects the conclusions drawn from this analysis to be pursued and put into practice. Furthermore, the Council requests the government departments to observe the recommendations from the report, especially the above checklist, for the transposition of EU legislative acts into national law.** The NKR assumes that the Federal Government will report to the HLG on the follow-up to the Best Practice Report at the national level this year.

2.5 Council and European Parliament

This spring, the European Parliament has established a special directorate in order to be able to verify the impact assessments of the Commission and to determine the consequences of motions for amendment in Parliament. In July 2012, that directorate presented a first study stating the strengths and weaknesses of an impact assessment conducted by the Commission on a planned EU directive.

The NKR and the other European independent Councils have intensified their contacts with the European Parliament and the EU Council. The efforts focus on giving the regulatory impact assessment in the Council bodies more importance. Although the EU Council voted in favour of continued bureaucracy reduction at the national and European levels, the financial consequences and bureaucratic impacts are rarely addressed in the negotiations held by the EU Council working bodies.

The developments in the **European Parliament**, including the establishment of a special impact assessment directorate, are an important step towards an intensified conduct of impact assessments at the European level. The EU Council, in contrast, **has hardly shown any initiative for increased commitment in this area as yet.** To achieve progress there, the NKR and the other European independent Councils consider it important that the member states assume a more active and intense role at an earlier stage of this process than before. At the German level, this means that the already existing EU ex-ante procedure needs to be further extended (see below). The aim should be that all three actors in the EU legislative process – EU Commission, EU Council, and EU Parliament – take equally intense and coordinated action as regards impact assessment and better legislation.

3. The EU ex-ante procedure at the national level

Using the EU ex-ante procedure introduced in October 2007, the Federal Government intends to influence the legislative process at the European level via the EU Council so that new European legislation minimizes the burden on the addressees. For this purpose, the Federal Government has introduced a procedure in which the NKR is involved as well.

This procedure **has not provided the desired effect as yet**. Along with the Better Regulation Unit in the Federal Chancellery, the NKR has therefore developed a draft procedure trying to bring German interests to bear at a much earlier stage. It is planned that Germany will not wait to exert influence until the Commission submits a draft regulation to the Council, but will already start upon the publication of first considerations on new projects (annual work programme and so-called roadmaps⁵⁰). Furthermore, the contents of this approach have been expanded to include compliance costs. The NKR is presently coordinating this concept with the Federal Government in detail. The aim is to jointly adopt the corresponding amendments and supplementations to the existing procedure by the end of this year and to start implementation.

4. Cooperation of the National Regulatory Control Council with other Independent Councils

The NKR cooperates closely with other independent Councils in the **Netherlands (ACTAL)**, **Sweden (Regelrådet)** and **Great Britain (RPC)**. In November 2011, the Czech Republic has established an independent advisory board on bureaucracy reduction and better regulation as well. The establishment of the “Regulatory Impact Assessment Board” marks the first introduction of an independent advisory and control body in an East European country.

These five independent bodies regularly exchange information about the respective national considerations. These talks proved particularly helpful in the **discussion on the methodology of compliance costs**. The common **objective** is to **promote bureaucracy reduction and better regulation at the European level as well**.

In November 2011, the councils published a **common position paper** titled “The End of the Commission’s Action Programme for Reducing Administrative Burdens in the European Union - What Comes next?”. The major demands of the paper include:

- » adoption of a new action programme comprising not only bureaucracy costs but also compliance costs;

⁵⁰ These roadmaps contain short descriptions of planned EU legislative proposals, including contents and a time schedule up to the adoption by the Commission. Some of the roadmaps also contain a rough estimate of the costs associated with the proposals.

- » further development of the procedure for impact assessment: impact assessments and roadmaps shall be submitted for all regulation projects, focusing on burdens on SMEs in particular. The agencies concerned shall get involved to a greater extent;
- » improved investigation of alternatives;
- » for quality improvement, the Impact Assessment Board within the Commission is to become more independent by including independent experts on better regulation;
- » prolongation and strengthening of the HLG mandate: the group is to advise all three EU institutions on better legislation in the future.

These demands are supported by BUSINESSEUROPE, the European industrial association.⁵¹

5. Cooperation with OECD

Together with the Organisation for Economic Co-operation and Development (OECD), the Federal Chancellery and the NKR held a workshop titled “Re-Boosting Growth: Overcoming Challenges to Measuring and Reducing Compliance Costs” in Berlin on 11/12 June 2012.⁵² Some 80 delegates from 20 countries, including Canada, Korea, and Australia, participated in the event and presented strategies and practices for the identification and reduction of compliance costs related to laws. The measurement of the benefits of new regulations was intensely discussed, too. Some countries, for instance, conduct a cost-benefit-analysis for particularly complex legislative drafts and attach much more importance to the intense analysis of regulatory alternatives in order to identify the most cost-effective solution.

It was agreed that essential principles for the calculation of compliance costs will be developed on the basis of the workshop results under the auspices of the OECD and involving interested OECD member states, and published as a report. The work will focus on embedding the compliance costs into the regulatory impact assessment and on the institutions and processes required for this.

During the workshop, the OECD also presented its Recommendation on Regulatory Policy and Governance.⁵³ This recommendation comprises twelve guiding principles to further improve regulatory systems and the quality of laws. These concern, among others:

- » early regulatory impact assessment for new regulatory proposals that also comprises a quantitative ex-ante estimation of the costs and benefits for major regulatory proposals, if possible;

51 The BUSINESSEUROPE position paper is available at: <http://www.businessseurope.eu/content/default.asp?PageID=568&DocID=30169>.

52 Additional information and documents related to the workshop are available at http://www.oecd.org/document/24/0,3746,en_2649_37421_50193176_1_1_1_37421,00.html.

53 The recommendation is available at <http://www.oecd.org/regreform/regulatorypolicy/recommendationofthecouncilonregulatorypolicyandgovernance.htm>.

- » involving the public in the development of a new draft regulation in order to ensure an optimum information basis for legislative decisions;
- » systematic examination of existing significant regulation in order to review the accomplishment of the intended objectives, to keep them up to date and to analyse to which extent the respective costs are still justified.

The NKR welcomes these recommendations and will support and demand their further implementation at the national level within the scope of its mandate. The commitment of the OECD in establishing principles for measuring compliance costs at the international level has been explicitly supported by the NKR from the very beginning. Moreover, the NKR considers it extremely important that an **international standard for the identification of compliance costs** will be developed. This would **allow international comparisons** from which **additional ideas for improving the legislative quality** can be expected.

6. International Regulatory Reform Conference 2013

On 31 January and 1 February 2013, the Federal Government will host the International Regulatory Reform Conference in Berlin. International speakers and participants from the fields of the public authorities, business and research are expected to attend. Various aspects of regulatory reform and better regulation will be discussed in plenary sessions and several workshops. There will be detailed discussions on issues such as the role of the parliaments and the consideration of the costs and benefits of new regulations.

The NKR welcomes the commitment of the Federal Government, offering international experts a **platform for the exchange of lessons learned and good practice** related to the subject of regulatory reform. International lessons learned represent a **valuable source of information** from which the Federal Government can draw ideas and inspiration for the progress of the German bureaucracy reduction programme. As co-organiser, the NKR will provide active support for the preparation and conduct of this conference.

X Annexes

1. Act on the Establishment of a National Regulatory Control Council (NKRK)

§ 1 Establishment of a National Regulatory Control Council

(1) A National Regulatory Control Council with its official seat in Berlin is established at the Federal Chancellery. It is bound only by the mandate conferred by this Act and is independent in its work.

(2) The role of the National Regulatory Control Council is to support the Federal Government in implementing its measures in the field of bureaucracy reduction and better regulation.

(3) In particular, the Council examines whether the compliance costs to the citizens, the business sector and public authorities as a result of new regulations are described in a comprehensible and methodically correct manner, and, in addition, looks into the presentation of the other costs to businesses, especially small and medium-sized enterprises.

(4) The envisaged objectives and purposes of regulations are not the subject of reviews by the National Regulatory Control Council.

§ 2 Compliance costs

(1) The term compliance costs embraces the entire measurable time and costs incurred by the citizens, the business sector and public authorities through compliance with a provision under Federal law.

(2) Compliance costs include the costs of bureaucracy. Bureaucracy costs within the meaning of this Act are costs incurred by natural or legal persons due to information obligations. Information obligations are obligations existing as a result of laws, regulations, by-laws or administrative provisions to procure or keep available for, or pass on to, authorities or third parties data and other information.

(3) The Standard Cost Model must be applied in measuring bureaucracy costs. The internationally recognised rules for the application of the Standard Cost Model must be taken as a basis. Any divergence from this method requires a decision by the majority of the members of the National Regulatory Control Council and the consent of the Federal Government. The need for a decision is to be examined in particular where there would otherwise be a risk of divergence from the internationally recognised rules for the application of the Standard Cost Model.

(4) In the initial calculation of the key figures necessary for the conduct of the measurement in enterprises (costs per unit, time for each individual activity triggered by statute and its frequency per year, and the number of enterprises affected), all bureaucracy costs based on Federal law must be taken into consideration.

§ 3 Composition and Organisation of the National Regulatory Control Council

(1) The National Regulatory Control Council has ten members. The Federal Chancellor proposes them to the Federal President in agreement with the other members of the Federal Government. The Federal President then appoints the proposed persons for a term of office of five years. Reappointment is permitted. The members are entitled to resign from office by giving notice to the Federal President. If a member leaves prematurely, a new member will be appointed for the remaining term of office of the member who has left. Sentence 2 shall apply accordingly.

(2) Members should have prior experience in legislative matters obtained through serving in state or society institutions, and should have a knowledge of economic affairs.

(3) During their membership of the National Regulatory Control Council, members may belong neither to a legislative body nor to a Federal or State authority, nor may they have a permanent service or agency relationship with such bodies or authorities. Exceptions may be made for university lecturers. Members also may not have held such a position within the last year preceding their appointment as a member of the National Regulatory Control Council.

(4) The National Regulatory Control Council is chaired by the member appointed by the Federal Chancellor.

(5) Membership of the National Regulatory Control Council is honorary.

(6) The National Regulatory Control Council takes decisions with a majority of its members. In case of a tie in the voting, no objection will be filed against the draft law reviewed. A special vote is not permitted.

(7) The process followed by the National Regulatory Control Council is governed by rules of procedure approved by the Federal Chancellor in agreement with the other members of the Federal Government.

(8) Legal supervision is exercised by the Head of the Federal Chancellery.

(9) A Secretariat for the National Regulatory Control Council is established at the Federal Chancellery. The Head of the Secretariat takes part in an advisory capacity in the meetings of the National Regulatory Control Council. The Head of the Secretariat is subject only to the instructions of the National Regulatory Control Council. The Secretariat staff are subject only to the instructions of the National Regulatory Control Council and of the Head of the Secretariat. The

staff of the Secretariat may not at the same time be entrusted, either full-time or part-time, with other tasks in the direct or indirect state administration of the Federation or the individual Federal states.

(10) The members of the National Regulatory Control Council receive a lump-sum payment and are reimbursed for their travel expenses. These payments are fixed by the Head of the Federal Chancellery in agreement with the Federal Minister of the Interior.

(11) The members of the National Regulatory Control Council and the members of the Secretariat are bound by a duty of confidentiality concerning the deliberations and the deliberation documents classified as confidential by the National Regulatory Control Council.

(12) The Federation bears the costs incurred by the National Regulatory Control Council. The National Regulatory Control Council must be equipped with the requisite staff and materials to perform its duties. The position of Head of Secretariat must be filled in agreement with the National Regulatory Control Council. The positions of the staff of the Secretariat must be filled in agreement with the Chairman of the National Regulatory Control Council. Secretariat staff may be transferred, delegated or reassigned only with the consent of the Chairman of the National Regulatory Control Council if they are not in agreement with the intended measure.

§ 4 Duties of the National Regulatory Control Council

(1) The National Regulatory Control Council has the right to review:

1. drafts for new Federal laws,
2. the original acts in the case of drafts of amending laws,
3. drafts of subsequent non-priority laws, regulations and administrative provisions,
4. preparatory work on legislative acts (framework decisions, decisions, agreements, and the relevant implementing measures) of the European Union, and preparatory work on regulations, directives, and decisions of the European Community,
5. in the implementation of EU law, the relevant statutes and non-priority laws, regulations and administrative provisions,
6. existing Federal laws as well as regulations and administrative provisions based on them.

(2) The review by the National Regulatory Control Council can extend beyond the examination pursuant to Section 1(3) [of the Act on the Establishment of a National Regulatory Control Council] to include the methodologically appropriate implementation and comprehensible presentation of the following aspects:

1. comprehensible presentation of the objective and the necessity of the regulation,
2. considerations relating to other possible solutions,
3. considerations regarding effective date, time limits and evaluation,
4. comments on the simplification of legal and administrative procedures,
5. the extent to which further regulations must be laid down in addition to EU standards in the case of the implementation of a directive or other legislative act of the European Union.

(3) The National Regulatory Control Council reviews the draft regulations of the Federal Ministries prior to their submission to the Federal Cabinet. The National Regulatory Control Council will review Bundesrat draft regulations if these are transmitted to the Council by the Bundesrat [chamber of the German Parliament representing the Federal states]. It reviews draft regulations from the floor of the Bundestag at the request of the parliamentary group or member of the Bundestag proposing the legislation. The order of dealing with the drafts is determined at the Council's discretion.

(4) The National Regulatory Control Council expresses its opinion on the Federal Government's annual report regarding the question of the extent to which the Federal Government's targets of cutting bureaucracy costs and achieving better regulation have been attained.

(5) This does not affect the audit powers of the Federal Audit Office and the Federal Commissioner for Economic Efficiency in the Administration.

§ 5 Powers of the National Regulatory Control Council

(1) The National Regulatory Control Council is authorised to

1. use the database established by the Federal Government for the data obtained during the identification of the costs of bureaucracy,
2. conduct its own hearings,
3. commission expert opinions,
4. submit special reports to the Federal Government.

(2) Authorities of the Federation and the individual Federal states shall provide administrative assistance to the National Regulatory Control Council.

§ 6 Duties of the National Regulatory Control Council

(1) The National Regulatory Control Council does not publicly deliver its opinions on draft laws.

These opinions and the opinions of the Federal Government on them will be attached to the draft law upon its submission to the Bundestag and/or upon its being sent to the Bundesrat.

(2) The National Regulatory Control Council reports annually to the Federal Chancellor. It may attach recommendations to its written report.

(3) The National Regulatory Control Council is available in an advisory capacity to the Bundestag and Bundesrat standing committees responsible and asked for an opinion.

§ 7 Duties of the Federal Government

The Federal Government submits an annual report to the German Bundestag on

1. the status of bureaucracy reduction in the context of existing targets,
2. the experience gained with the method applied in the estimation of compliance costs,
3. the development of compliance costs in the individual Ministries, and
4. results and developments in the field of better regulation.

§ 8 Duties of the Federal Statistical Office

Where necessary, the Federal Statistical Office assists the Federal Government, the Bundestag and the Bundesrat in performing the tasks arising from this Act, in particular by evaluating available data and undertaking estimates of costs. It is responsible for creating and maintaining the databases needed for reporting and monitoring performance within the meaning of this Act.

§ 9 Entry into Force

This Act enters into force on the day after its promulgation.

2. Survey of the ministries represented in the National Regulatory Control Council

Federal Ministry	Rapporteur	Member of Staff, Secretariat of the National Regulatory Control Council
Federal Chancellery	Dr. Ludewig	Ms Sliwinski
Federal Foreign Office	Dr. Ludewig	Ms Wernitz
Federal Ministry for Economics and Technology	Mr Schleyer (Div. I) Mr Lechner (other divisions)	Mr Kay
Federal Ministry of Food, Agriculture and Consumer Protection	Ms Störr-Ritter	Ms Hampel
Federal Ministry of Defence	Dr. Ludewig	Ms Wernitz
Federal Ministry of Families, Senior Citizens, Women and Youth	Mr Lechner	Ms Legenstein
Federal Ministry of Health	Mr Catenhusen	Mr Gold
Federal Ministry for the Environment, Nature Conservation and Nuclear Safety	Prof. Versteyl	Ms Schön
Federal Ministry of Education and Research	Ms Grieser	Ms Sliwinski
Federal Ministry for Economic Cooperation and Development	Mr Funke	Ms Wernitz
Federal Ministry of Transport, Building and Urban Development	Ms Grieser	Ms Wernitz
Federal Ministry of Finance	Mr Funke	Ms Sliwinski/Mr Gold
Federal Ministry of Labour and Social Affairs	Dr. Dückert	Mr Häsemeyer
Federal Ministry of the Interior	Prof. Kuhlmann	Ms Sliwinski
Federal Ministry of Justice	Mr Schleyer	Ms Schön

Secretariat

Head: Dr. Dominik Böllhoff

Staff members: Dr. Philipp Birkenmaier (until June 2012), Sebastian Gold, Manuela Gudat, Martina Hampel, Ralf Häsemeyer, Ronny Kay, Claudia Legenstein, Petra Schön, Katrin Sieland, Anette Sliwinski, Tobias Thiel und Andrea Wernitz

3. List of publications of the National Regulatory Control Council

10 November 2011	Common Position Paper of ACTAL, NKR, Regelradet and RPC: „The End of the Commission’s Action Programme for Reducing Administrative Burdens in the European Union“
01 December 2011	Press Release: Report of the High-Level Consensus Group on Skilled Labour Demand and Immigration
14 December 2011	Press Release: The NKR perceives previous bureaucracy reduction measures as successful but calls for further efforts to be made
13 January 2012	Newspaper Supplement of the National Regulatory Control Council: Cutting Red Tape! The National Regulatory Control Council informs you
21 February 2012	Press Release: Europe can do better. Report on best practice in Member States to implement EU legislation in the least burdensome way, High Level Group (HLG) of Independent Stakeholders on Administrative Burdens (Stoiber Group) [available in German and English]
28 March 2012	Press Release: The NKR sees a need for action: The new “Better Regulation” Work Programme of the Federal Government is a step in the right direction, but others have to follow!
28 March 2012	Opinion of the NKR on the Federal Government’s work programme
18 April 2012	Opinion of the NKR on the Federal Government’s 2011 report
18 April 2012	Press Release: Federal Government Report 2011, “A Foundation for Better Law: Five Years of Bureaucracy Reduction and Better Regulation“
24 May 2012	Press Release: Reduction of Retention Periods
11 Jun 2012	Press Release: Workshop of the OECD at the Federal Chancellery
14 June 2012	Press Release: Two years after the report on the Federal Education and Training Assistance Act (BAföG) – Where do we stand?
09 July 2012	Press Release: Federal Education and Training Assistance Act (BAföG) continues to show deficits – NKR calls for a law amending the Act
09 July 2012	Press Release: Two years after the Report “Facilitating the Application for Student Funding under the Federal Education and Training Assistance Act (BAföG)“
09 July 2012	Interim assessment of the NKR two years after the Report “Facilitating the Application for Student Funding under the Federal Education and Training Assistance Act (BAföG)“

4. Newspaper supplement of the National Regulatory Control Council (front page)

Bürokratieabbau!

Der Normenkontrollrat informiert

10.900.000.000 €

BÜROKRATIEABBAU: SCHON VIEL GESCHAFFT – NOCH VIEL ZU TUN

50 Milliarden Euro hat uns die deutsche Bürokratie Jahr für Jahr gekostet. Milliarden, die die Wirtschaft vor allem in Antragsformulare oder das Ablegen von Rechnungen stecken musste. Verlorenes Geld! Doch dann entschied die Bundesregierung, dem Bürokratiewüchsch den Kampf anzusagen, um Unternehmen sowie Bürgerinnen und Bürgern das Leben leichter zu machen und Kosten in der Verwaltung einzusparen.

Kanzlerin Angela Merkel berief 2006 den Nationalen Normenkontrollrat ein. Der pruft seitdem, welche Gesetze sich vereinfachen lassen und wo noch Kosten gespart werden können.

Selt einigen Monaten kommen nicht nur Kosten aus Informationspflichten, sondern alle Folgekosten auf den Prüfstand. Erstmals wurde so Bürokratieabbau messbar und bezifferbar.

Und: Die ersten Erfolge sind erkennbar. Die Bundesregierung konnte bisher bereits 10,9 Milliarden Euro einsparen! Ein guter Anfang – davon profitiert der gesamte Wirtschafts-

standort Deutschland. Das Erreichte darf aber nicht wieder verspielt werden. Damit die Dynamik gehalten werden kann, müssen die Beamten in den Ministerien bei ihren Gesetzentwürfen immer die Kostenbrille aufsetzen. Der bisherige Erfolg muss Richtschnur und Ansporn zugleich sein, weitere Entlastungen müssen folgen!



„ENDLICH MEHR FREIRÄUME!“

Marvin Gellich, Berliner Jungunternehmer, stimmt Gewerbesteuererklärungen, Jahresabschlüsse-rastige Verpflichtungen stehen bei ihm zu ort zur Tagesordnung. Die Buchhaltung wurde zum Glück einfacher. Denn anstatt die Mehrwertsteuer (eigentlich Umsatzsteuer) von seinen Rechnungen sofort ans Finanzamt zu überweisen, kann er sich nun ein wenig Zeit lassen. Bis 2009 mussten Unternehmer mit einem jährlichen Umsatz von mehr als 250.000 Euro die Umsatzsteuer innerhalb einer vom Gesetz festgelegten Frist abfahren. Selbst dann, wenn die Rechnung von dem Kunden noch gar nicht bezahlt wurde. Diese Umsatzgrenze wurde durch das Bürgerentlastungsgesetz auf 500.000 Euro heraufgesetzt. „Endlich mehr Freiräume“, freut sich Gellich. Denn mit der neuen Regelung braucht er erst dann die Umsatzsteuer zu zahlen, wenn der Kunde auch tatsächlich überwiesen hat. Für Gellich hat das nur positive Effekte. „Dadurch habe ich mehr liquide Mittel, viel weniger Bürokratie am Hals und wenigstens die Buchhaltung wird leichter und einfacher.“

ALLES SAUBER!



Zu einem schönen Leben gehört auch eine schöne Wohnung. Am besten eine, die man nicht selbst putzen muss. Damit aber nicht nur die Wohnung sauber ist, sondern auch die Abrechnung der Haushaltshilfe, mussten Privathaushalte diese früher mit komplizierten Formularen anmelden und monatlich abrechnen. Viel Stress – obwohl es doch eigentlich darum geht, sich Stress zu ersparen. Hier hat sich viel getan: Der private Arbeitgeber zahlt mittlerweile die Sozialversicherungsabgaben, Steuern und Beiträge über das einfache Haushaltsscheckverfahren. Dafür muss er nur der Minijob-Zentrale eine Einzugsermächtigung erteilen, das Scheckformular ausfüllen und unterschreiben. So sind alle Meldepflichten ganz einfach erfüllt. „Stressfrei!“, freut sich auch Jennifer du Carrois, berufstätige Mutter aus Berlin. „Ich zahle meiner Haushaltshilfe jeden Monat ihr wechselndes Entgelt aus. Weil die Minijob-Zentrale seit 2008 die anfallenden Abgaben nur noch halbjährlich von unserem Konto einzieht, sende ich den



Nationaler Normenkontrollrat

Ausgabe des NKR ist es, die Bundesregierung beim Bürokratieabbau zu unterstützen. Am 21. September 2011 überreichte Bundeskanzlerin Merkel den neu berufenen Mitgliedern ihre Berufungsurkunden zur zweiten Amtszeit:
DR. JOHANNES LÜDEWIG (Vorsitzender), ehem. Vors. des Vorstands Deutsche Bahn AG, Staatssekretär a. D. ••• **WOLF-MICHAEL CATENHUSEN** (stellv. Vorsitzender) Staatssekretär a. D. ••• **DR. THEA DOCKERT** Gastdozentin Universität Oldenburg, MdB a. D. ••• **RAINER FUNKE** Rechtsanwalt, Parl. Staatssekretär a. D. ••• **GUÐRÚN GRIEÐER** Oberbürgermeisterin a. D. ••• **PROF. DR. SABINE KUHLMANN** Deutsche Hochschule für Verwaltungswissenschaften Speyer ••• **SEBASTIAN LECHNER** Diplom-Volkswirt ••• **HANNES-EBERHARD SCHLEYER** Rechtsanwalt ••• **DOROTHEA STORRRITTER** Landrätin ••• **PROF. DR. ANDREA VERSTEYL** Rechtsanwältin, RichterIn am Sachsischen Verfassungsgerichtshof in Leipzig

„Stressfrei!“
Janitor du carnis
 Entgeltnachweis nur noch zweimal im Jahr zu.“ So macht die saubere Wohnung doppelt Spaß!

5. List of events and dates

2011	
21 September 2011	Appointment of the new members of the National Regulatory Control Council by the Federal Chancellor Dr. Merkel, Berlin
28 September 2011	144th meeting of the National Regulatory Control Council, Berlin
5 October 2011	145th meeting of the National Regulatory Control Council, Berlin
19 October 2011	146th meeting of the National Regulatory Control Council, Berlin
26 October 2011	147th meeting of the National Regulatory Control Council, Berlin
2 November 2011	Mr Catenhusen – Talk on the implementation of the Care Structures Act (Federal Joint Committee - G-BA), Berlin
3 November 2011	Mr Funke – Ceremonial act of the Federal Chamber of Tax Advisers (BStBK), Berlin
8 November 2011	Mr Catenhusen – Talk with State Secretary Thomas Ilka (Federal Ministry of Health), Berlin
10 November 2011	Dr. Ludewig, Dr. Dückert – Talk with Dr. Rische (Federation of German Pension Insurance Institutions), Berlin
10 November 2011	148th meeting of the National Regulatory Control Council, Berlin
10 November 2011	Ms Störr-Ritter – Talk with State Secretary Dr. Kloos (Federal Ministry of Food, Agriculture and Consumer Protection), Berlin
25 November 2011	149th meeting of the National Regulatory Control Council, Berlin
2 December 2011	Prof. Kuhlmann – Talk with State Secretary Cornelia Rogall-Grothe (Federal Ministry of the Interior), Berlin
5 December 2011	150th meeting of the National Regulatory Control Council, Berlin
5 December 2011	Dr. Ludwig, Mr Catenhusen, Mr Schleyer, Mr Lechner – Meeting with top-level representatives of the business associations
7 December 2011	Dr. Ludwig – High Level Group (HLG) meeting, Brussels
8 December 2011	Mr Catenhusen – Discussion with the National Association of Statutory Health Insurance Dentists (KZBV), Berlin
15 December 2011	Dr. Ludwig, Mr Lechner, Mr Schleyer – Talk with State Secretary Stefan Kapferer (Federal Ministry for Economics and Technology), Berlin
15 December 2011	151st meeting of the National Regulatory Control Council, Berlin
16 December 2011	Dr. Ludwig – Discussion with Members of the Bundestag Dr. Michael Fuchs and Dr. Hermann-Otto Solms, Berlin
16 December 2011	Mr Funke – Talk with State Secretary Dr. Hans Bernhard Beus (Federal Ministry of Finance), Berlin
2012	
11 January 2012	Dr. Ludwig – Workshop with the central associations of the German economy, Berlin
12 January 2012	152nd meeting of the National Regulatory Control Council, Berlin
12 January 2012	Dr. Dückert – Talk with State Secretary Gerd Hoofe (Federal Ministry of Labour and Social Affairs), Berlin
24 January 2012	Mr Lechner – Discussion on the subject of bureaucracy reduction through eGovernment at the Federal Ministry of the Interior, Berlin
25 January 2012	Dr. Ludwig – Discussion with members of the German SME Circle (PKM) of the CDU/CSU parliamentary group, Berlin
26 January 2012	Dr. Ludwig – High Level Group (HLG) meeting, Brussels

30 January 2012	Mr Catenhusen – Discussion with Dr. Buchholz (National Association of Statutory Health Insurance Dentists - KZBV), Berlin
2 February 2012	Dr. Ludewig – Discussion with Mr Rolf Alter, Director, Public Governance & Territorial Development Directorate, OECD, Berlin
2 February 2012	153rd meeting of the National Regulatory Control Council, Berlin
2 February 2012	Mr Lechner – Discussion with members of Division IT 1 and the office of the IT Planning Council at the Federal Ministry of the Interior, Berlin
8 February 2012	Mr Catenhusen – Discussion with Dr. Buchholz (National Association of Statutory Health Insurance Dentists - KZBV), Berlin
8 February 2012	Dr. Ludewig, Mr. Catenhusen – Meeting with the Committee of State Secretaries for the Reduction of Bureaucracy, Berlin
9 February 2012	154th meeting of the National Regulatory Control Council, Berlin
9 February 2012	Mr Lechner – Talk with State Secretary Josef Hecken (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth), Berlin
9 February 2012	Dr. Ludewig, Mr Catenhusen – Discussion with Federal Minister of Health Daniel Bahr, Berlin
14 February 2012	Dr. Ludewig, Prof. Kuhlmann – Talk with Federal Minister of the Interior Hans-Peter Friedrich, Berlin
21 February 2012	Dr. Ludewig – High Level Group (HLG) meeting, Brussels
22 February 2012	Prof. Versteyl – Talk with State Secretary Jürgen Becker, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, Berlin
28 February 2012	Mr. Catenhusen – Discussion with Mr von Stackelberg (National Association of Statutory Health Insurance Funds), Berlin
29 February 2012	Dr. Ludewig – Discussion with members of the European Parliament, Brussels
1 March 2012	155th meeting of the National Regulatory Control Council, Berlin
5 March 2012	Dr. Ludewig, Mr. Catenhusen – Meeting with the Committee of State Secretaries for the Reduction of Bureaucracy, Berlin
8 and 9 March 2012	Two-day retreat of the National Regulatory Control Council, Berlin
12 March 2012	Mr Funke – Tax Forum at the German Confederation of Skilled Crafts (ZDH), Berlin
15 March 2012	156th meeting of the National Regulatory Control Council, Berlin
21 March 2012	Dr. Ludewig – Discussion with the Verbändeunion Berlin [former staff of Members of the German Bundestag for the CDU parliamentary group who now operate in middle management associations and get together three or four times a year to exchange views], Berlin
22 March 2012	Dr. Ludewig – High Level Group (HLG) meeting, Brussels
23 March 2012	Ms Grieser – Discussion with Mr Heinrich Alt (Federal Employment Agency), Nuremberg
29 March 2012	157th meeting of the National Regulatory Control Council, Berlin
30 March 2012	Ms Grieser – Discussion with State Secretary Prof. Scheurle (Federal Ministry of Transport, Building and Urban Development), Berlin
19 April 2012	158th meeting of the National Regulatory Control Council, Berlin
19 April 2012	Mr Lechner – Talk with State Secretary Josef Hecken (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth), Berlin
24 April 2012	Mr Catenhusen – Discussion with members of the Thuringian Ministry for Education, Science and Culture, Erfurt

24 April 2012	Mr Lechner – Expert dialogue on the subject of bureaucracy reduction through eGovernment, Berlin
25 April 2012	159th meeting of the National Regulatory Control Council, Berlin
25 April 2012	Mr Catenhusen – Platform on “Intelligent Federalism”, Berlin
26 April 2012	Dr. Ludewig – Discussion with Peter Altmaier, [Federal Environment Minister and former] First Parliamentary Secretary of the CDU/CSU parliamentary group in the German Bundestag, Berlin
27 April 2012	Dr. Ludewig – Spring conference of the Association of German Chambers of Industry and Commerce (DIHK), Berlin
7 May 2012	Dr. Ludewig – Discussion with the spokespersons and chairpersons of the Committee on Economics and Technology of the German Bundestag, Berlin
8 May 2012	Mr Catenhusen – Discussion with members of the Hamburg Ministry of Science and Research (BWF), Hamburg
10 May 2012	160th meeting of the National Regulatory Control Council, Berlin
14 May 2012	Mr Catenhusen – Talk with Dr. Matthias von Schwanenflügel, Division Chief at the Federal Ministry of Health, Berlin
21 May 2012	Dr. Ludewig – High Level Group (HLG) meeting, Brussels
22 May 2012	Dr. Ludewig, Mr Schleyer, Mr Lechner – Discussion with Dr. Philipp Rösler, Federal Minister of Economics and Technology, and State Secretary Stefan Kapferer (Federal Ministry for Economics and Technology), Berlin
23 May 2012	Mr Funke – Meeting with the German Credit Association, Berlin
24 May 2012	Mr Catenhusen – Discussion with Dr. Genett (Association of Private Health Insurers), Berlin
30 May 2012	Mr Catenhusen – Discussion with Dr. Lieschke (National Association of Statutory Health Insurance Physicians – KBV), Berlin
31 May 2012	Dr. Dücker – Discussion with Kerstin Andreae, Member of the German Bundestag for the Bündnis 90/Die Grünen parliamentary group, Berlin
31 May 2012	161st meeting of the National Regulatory Control Council, Berlin
6 June 2012	Dr Ludewig – Discussion with Mr Uwe Corsepius, Secretary General of the Council of the European Union, and Members of the European Parliament, Brussels
11/12 June 2012	Dr. Ludewig, Mr Catenhusen – OECD Workshop “Re-Boosting Growth: Overcoming Challenges to Measuring and Reducing Compliance Costs”, Berlin
13 June 2012	Mr Catenhusen – Participation in the 2012 Capital Congress on Medicine and Health (Hauptstadtkongress Medizin und Gesundheit 2012), Berlin
14 June 2012	Mr Catenhusen, Ms Grieser – Workshop with student body representatives on the subject of facilitating the application for funding under the Federal Education and Training Assistance Act (BAföG), Berlin
14 June 2012	162nd meeting of the National Regulatory Control Council, Berlin
20 June 2012	Dr. Ludewig – Discussion with Dr. Markus Kerber (Federation of German Industries – BDI), Berlin
21 June 2012	Dr. Ludewig – High Level Group (HLG) meeting, Brussels
22 June 2012	163rd meeting of the National Regulatory Control Council, Berlin
22 June 2012	Dr. Dücker – Discussion with Mr Heinrich Alt (Federal Employment Agency), Berlin

25 June 2012	Dr. Ludewig – Presentation and discussion at the meeting of the presidential board/executive board of the Confederation of German Employers' Associations (BDA), Berlin
27 June 2012	Mr Lechner - Study Group 1.3 "Bürokratieentlastung der öffentlichen Verwaltung" [Easing the Bureaucratic Burden on Public Authorities] of the Consortium for Economic Administration (AWV), Berlin
28 June 2012	Dr. Ludewig – Discussion on the evaluation procedure and work programme of the Federal Government with Minister of State Eckart von Klaeden and State Secretary Cornelia Rogall-Grothe, Berlin
5 July 2012	Ms Störr-Ritter – Discussion with Dr. Gerd Landsberg (German Association of Towns and Municipalities – DStGB) and Prof. Dr. Hans-Günter Henneke (German County Association – DLT), Berlin
11 July 2012	Ms Grieser – Discussion with Dr. Stephan Articus (German Association of Cities – DST), Berlin
12 July 2012	164th meeting of the National Regulatory Control Council, Berlin
19 July 2012	Dr. Ludewig – Talk with Commissioner Günther Oettinger, Brussels
25 July 2012	Dr. Ludewig – Talk with Ronald Pofalla, Federal Minister for Special Tasks, Berlin
10 August 2012	Dr. Ludewig, Mr Lechner – Discussion with Beate Lohmann, Director Public Administration and Modernisation, Federal Ministry of the Interior, on the eGovernment Act, Berlin
14 August 2012	Dr. Ludewig – Discussion on the progress of online project "Vehicle Systems" with members of the Federal Ministry of Transport, Building and Urban Development and representatives of the city of Hamburg, Berlin
27 August 2012	Dr. Ludewig – Talk with Jochen Homann (Federal Network Agency – BNetzA), Berlin
28 August 2012	165th meeting of the National Regulatory Control Council, Berlin
28 August 2012	Dr. Ludewig – Participation in the closing event of the "Dialogue on Germany's Future", Berlin
28 August 2012	Dr. Ludewig – Talk with Dr. Jürgen Koppelin, Member of the German Bundestag, Berlin
29 August 2012	Dr. Ludewig – Talk with Norbert Barthle, Member of the German Bundestag, Berlin
6 September 2012	166th meeting of the National Regulatory Control Council, Berlin
13 September 2012	Dr. Ludewig, Prof. Verstejl – Discussion with members of the Environment Committee of the German Bundestag, Berlin
13 September 2012	167th meeting of the National Regulatory Control Council, Berlin
13 September 2012	Prof. Verstejl – Discussion with members of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, Berlin
19 – 20 September 2012	Herr Dr. Ludewig – HLG-Sitzung, Lissabon
	Dr. Ludewig – High Level Group (HLG) meeting, Lisbon
26 September 2012	Dr. Ludewig – Discussion with members of the German SME Circle (PKM) of the CDU/CSU parliamentary group, Berlin
27 September 2012	168th meeting of the National Regulatory Control Council, Berlin

6. List of abbreviations

AA	Auswärtiges Amt (Federal Foreign Office)
AWV	Arbeitsgemeinschaft für wirtschaftliche Verwaltung (Consortium for Economic Administration)
BDA	Bundesvereinigung Deutscher Arbeitgeberverbände (Confederation of German Employers' Associations)
BDI	Bundesverband der Deutschen Industrie (Federation of German Industries)
BK	Federal Chancellery
BKI	Bürokratiekosten-Index (Index of Bureaucracy Costs)
BMAS	Bundesministerium für Arbeit und Soziales (Federal Ministry of Labour and Social Affairs)
BMBF	Bundesministerium für Bildung und Forschung (Federal Ministry of Education and Research)
BMELV	Bundesministerium für Ernährung, Landwirtschaft und Verbraucherschutz (Federal Ministry of Food, Agriculture and Consumer Protection)
BMF	Bundesministerium der Finanzen (Federal Ministry of Finance)
BMFSFJ	Bundesministerium für Familien, Senioren, Frauen und Jugend (Federal Ministry of Families, Senior Citizens, Women and Youth)
BMG	Bundesministerium für Gesundheit (Federal Ministry of Health)
BMI	Bundesministerium des Innern (Federal Ministry of the Interior)
BMJ	Bundesministerium der Justiz (Federal Ministry of Justice)
BMU	Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit (Federal Ministry for the Environment, Nature Conservation and Nuclear Safety)
BMVBS	Bundesministerium für Verkehr, Bau und Stadtentwicklung (Federal Ministry of Transport, Building and Urban Development)
BMVg	Bundesministerium der Verteidigung (Federal Ministry of Defence)
BMWi	Bundesministerium für Wirtschaft und Technologie (Federal Ministry for Economics and Technology)
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (Federal Ministry for Economic Cooperation and Development)
DIHK	Deutscher Industrie- und Handelskammertag (Association of German Chambers of Industry and Commerce)
DST	Deutscher Städtetag (German Association of Cities)
DStGB	Deutscher Städte- und Gemeindebund (German Association of Towns and Municipalities)
G-BA	Gemeinsamer Bundesausschuss (Federal Joint Committee)
GKV	Gesetzliche Krankenversicherung (Statutory Health Insurance)
HLG	High Level Group
KBV	Kassenärztliche Bundesvereinigung (National Association of Statutory Health Insurance Physicians)
KZBV	Kassenzahnärztliche Bundesvereinigung (National Association of Statutory Health Insurance Dentists)
NKR	Nationaler Normenkontrollrat (National Regulatory Control Council)
NKRG	Gesetz zur Einrichtung eines Nationalen Normenkontrollrates (Act on the Establishment of a National Regulatory Control Council)
StBA	Statistisches Bundesamt (Federal Statistical Office)
ZDH	Zentralverband des Deutschen Handwerks (German Confederation of Skilled Crafts)

7. Survey of the ten regulatory initiatives involving the greatest annual burden on and/or relief to the business sector and public authorities

Burdens placed on the business sector				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
1961	Bill to amend the Energy and Electricity Tax Acts	BMF	250	Obligation on energy-intensive enterprises to introduce an energy management system and implement energy saving measures in return for continued tax benefits.
1803	Ordinance on the Establishment of a Financial Investment Intermediary Regulation (FinVermVEV)	BMWi	180	Development of the expert knowledge examination, the registration procedure, the obligation to take out a professional indemnity insurance policy, and the information, advice and documentation responsibilities incumbent on professional investment intermediaries.
2003	Law amending the Animal Protection Act (TierSchG)	BMELV	161	Implementation of a directive on the protection of animals used for scientific purposes, and prohibition of piglet castration without anaesthesia.
1873	Tenth Act amending the Law on the Supervision of Insurance Undertakings (VAG)	BMF	118	Implementation of a directive on the taking-up and pursuit of the business of insurance and reinsurance.
2277	Act amending the Law relating to the right to fly the flag and amending the Vessels Register Act	BMVBS	90	Implementation of stipulations set out in the Maritime Alliance (Maritimes Bündnis) so as to strengthen Germany as a maritime location and maintain and develop employment and training opportunities.
2123	Second Regulation implementing the Industrial Emissions Directive (IED)	BMU	73	Transposition of a directive. This includes adjusting the relevant sectoral minimum emission limit values (ELVs).
2026	Eighth Act amending Railway Law Regulations	BMVBS	33	Implementation of directives. This includes introducing an entity in charge of maintenance (ECM) and an ECM certification scheme in certain areas.

* Figures in millions of euros.

Burdens placed on the business sector				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
2062	First Regulation implementing the Industrial Emissions Directive (IED), amending the Ordinance on immission control and hazardous incident representatives, and adopting a disclosure regulation	BMU	27	Implementation of a directive. This includes changes concerning immission control and hazardous incidents representatives.
2025	Act amending provisions of insurance law	BMJ	26	Changes concerning, for instance, arrangements on retention and disclosure obligations concerning reports and opinions.
1915	Act implementing the Industrial Emissions Directive (IED)	BMU	13	Implementation of a directive: This will result in changes concerning immission control legislation, water legislation, and the Closed Substance Cycle Act (KrW).

* Figures in millions of euros.

Relief to the business sector				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
	Subject of the regulatory initiative	BMF	- 2.500,1	Amendment of 18 tax laws. Major relief measure: Reduction of retention periods.
1680	Act on Further Development of the Registration System (MeldFortG)	BMI	- 117,1	Consolidation of existing rules on the registration system in a single Federal Registration Act.
2168	Act on the placing and making available on the market of measuring instruments, the use and calibration of such instruments, and on pre-packaged products	BMWi	- 5,4	Simplifications in the placing on the market of measuring instruments not harmonised according to European standards.
1856	Regulation amending the rules on the approval of marine facilities seaward of the boundary of the German coastal sea	BMVBS	- 2.0	Change in the approval procedure for marine facilities subject to the plan approval procedure as per the Marine Facilities Ordinance (SeeAnIV) so as to speed up the process.

* Figures in millions of euros.

Relief to the business sector				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
1877	Rules amending the provisions of air law governing the inspection, approval and operation of air vehicles, aviation personnel, and the costs of aviation administration	BMVBS	- 1,2	Recasting of the applicable national rules pertaining to airworthiness, removal of the requirement to obtain approval as an aviation engineering company when conducting verification inspections, and extension of the period of validity of aircraft inspectors' certificates from 2 to 5 years.
2127	Ordinance on the vocational training of process mechanics for plastic and rubber	BMWi	- 1,0	Change in the examination structure: Waiving of the interim examination and introduction of an extended final examination.
2153	Ordinance on the vocational training of chimney sweeps	BMWi	- 1,0	Change in the examination structure: This change stipulates that apprentices no longer have to submit a work sample ("Arbeitsprobe") as part of their interim examination. Also, in the apprentices' final examination, the elements of "work sample" ("Arbeitsprobe") and "test piece" ("Prüfstück") will be replaced by the element of "job assignment and documentation" ("Arbeitsaufgabe und Dokumentation").
876	Second Law amending the Population Statistics Act (BevStatG)	BMI	- 1,0	Substantial review of the Population Statistics Act (BevStatG): Changes due to the reform of the law applicable to civil status, improved collection of data pertaining to German citizenship, and statistical coverage of registered partnerships.
1920	Regulation amending the Ordinance on the Operation of Pharmacies (ApBetrO)	BMG	- 0,9	Adaptation of the Ordinance on the Operation of Pharmacies (ApBetrO) so as to take account of new manufacturing activities and practical experience.
1931	Regulation amending Work Permit Legislation	BMAS	- 0,8	Absence of the work permit requirement in certain areas and, as a result, relinquishment of the existing obligation of the business sector vis-à-vis the Federal Employment Agency to disclose information on the conditions of work.

* Figures in millions of euros.

Burdens placed on public authorities				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
	Subject of the regulatory initiative	BMG	130,0	Improvement of the early detection of cancer, and establishment of a full-coverage clinical cancer registry.
2114	Law amending the 2005 Microcensus Act	BMI	23,8	Continued validity of the 2005 Microcensus Act, which, as a result, will permit surveys on the basis of the Microcensus Act to be carried out until 2016.
1950	Sixteenth Act amending the Law on Medicinal Products	BMELV	22,0	Introduction of requirements to cut down on antibiotics use for livestock breeders who, by way of business or trade on a commercial basis, fatten their animals for food production.
2181	Guidance to formulating a draft law on the introduction of a home child-care allowance	BMFSFJ	16,1	Introduction and administration of a home child-care allowance.
2033	Act on the reorientation of the insurance against the risk of reliance on care (care insurance)	BMG	15,4	Improvement of the services provided under the care insurance (e.g. for persons suffering from dementia), adaptation of the funding basis.
1803	Ordinance on the Establishment of a Financial Investment Intermediary Regulation (FinVermVEV)	BMWFi	14,5	Development of the expert knowledge examination, the registration procedure, the obligation to take out a professional indemnity insurance policy, and the information, advice and documentation responsibilities incumbent on professional investment intermediaries.
1915	Act implementing the Industrial Emissions Directive (IED)	BMU	10,0	See above.
1873	Tenth Act amending the Law on the Supervision of Insurance Undertakings (VAG)	BMF	9,5	See above.
2026	Eighth Act amending Railway Law Regulations	BMVBS	6,2	See above.
1853	Law on the reorganisation of the legislation pertaining to energy consumption labelling	BMWFi	6,2	Compliance costs of the Federal states on account of market surveillance relating to energy labelling.

* Figures in millions of euros.

Relief to public authorities				
NKR No.:	Title	Federal-Ministry	Net burden*	Subject of the regulatory initiative
1916	Draft of a Second Costs Law Modernisation Act (2. KostRMOG)	BMJ	- 179,1	Revision of the obsolete costs law, in particular as regards legal charges and the fees of notaries public and lawyers.
1943	Act amending Provisions relating to Civil Status	BMI	- 10,1	Implementation of the results of an evaluation of the Civil Status Reform Act (PStRG).
2085	2013 Annual Tax Law (JStG)	BMF	- 8,5	See above.
2061	Eighth Regulating amending the Ordinance Governing Residence (AufenthV)	BMI	- 0,7	Changes in the Ordinance Governing Residence (AufenthV), including simplified visa procedures for graduates of German schools abroad wishing to study in Germany.
1931	Regulation amending EU Work Permit Legislation	BMAS	- 0,7	See above.
2007	Third Ordinance amending the Regulation on the granting of Federal assistance in cases of illness, reliance on care, and births	BMI	- 0,5	Introduction of a legal basis for flat-rate deduction in the case of institutional care. Changes in response to recent case law of the Federal Administrative Court.
1548	Second Regulation amending the Integration Course Ordinance (IntV)	BMI	- 0,5	Adaptation of the Integration Course Ordinance (IntV) so as to take account of various legislative changes, for instance in the German Residence Act (AufenthG).
1947	Fourth Amending Ordinance on the Cost Ordinance on the Electrical and Electronic Equipment Act	BMU	- 0,3	Adaptation of the charges levied for the registration of electrical and electronic equipment to the current economic development.
1924	Eighth Law amending the Act against Restraints on Competition	BMWi	- 0,1	Introduction of an electronic Internet platform for supplying information to cartel authorities, and introduction of a disclosure obligation on enterprises regarding certain enterprise and market related data.
1888	Act on the Structural Reform of the Federal Law on Fees	BMI	- 0,1	Reform/Standardisation of the Federal law on administrative fees.

* Figures in millions of euros.

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