

Annual Report 2022

Reducing bureaucracy in a changing world

Acting now for citizens, business
and public administration



National
Regulatory Control Council

Key points

Key points

1. Significant increase in compliance costs: need to reduce bureaucracy even more urgent at times of crisis

War, a pandemic and climate change have all increased the pressure on Germany to innovate and strengthen its economy. Now, more than ever, businesses need to see an end to unnecessary bureaucracy if they are to survive current and future crises. In the 2021/22 reporting period, compliance costs rose by around 6.7 billion euros to a total of around 17.4 billion euros, a level considerably higher than that in previous years. Even if the increase is due in large part to an increase in the statutory minimum wage, the trend is still in the wrong direction. New ideas and renewed energy are required to address the issue. Reducing bureaucracy is a zero-cost economic stimulus and now is the time to make regulations and their implementation in Germany simpler, more effective and better tailored to those they are aimed at.

2. A fresh start in reducing bureaucracy: a new NKR, a new home and a stronger mandate

The new National Regulatory Control Council (*Nationaler Normenkontrollrat, NKR*) has now been appointed. Members come from diverse disciplines and professional and political backgrounds and bring a wide range of ideas. The NKR views its integration into the Federal Ministry of Justice (*Bundesministerium der Justiz*) as an opportunity. The combination of the Ministry's expertise in legislative drafting and

ideas and proposals from the NKR will generate fresh impetus and give added weight to the bureaucracy reduction and better regulation programme. Achieving tangible reductions in the bureaucratic burden on citizens, businesses and public administration is an objective shared by us all. For despite all the efforts made to date, there are still not enough clear signs of progress. The effectiveness of the existing system for avoiding and reducing unnecessary bureaucracy therefore needs to be improved and additional measures need to be launched. One such measure is the planned new Bureaucracy Reduction Act (*Bürokratieentlastungsgesetz*), and progress on this point is the responsibility of the entire Federal Government. The NKR is and shall remain an independent partner offering advice and constructive criticism, and will judge the Government on results.

3. Simpler implementation: the “digital-readiness check” could be a milestone in better regulation

From January 2023, federal ministries must ensure that all draft legislation meets the demands of the digital transformation. This binding requirement is set down in the Act Establishing a National Regulatory Control Council (*Gesetz zur Einsetzung eines Nationalen Normenkontrollrates, NKRG*). The Act also gives the NKR the power to assess compliance with this provision. The aim is to ensure that digital-readiness and practical implementation are considered from the outset in all legislative work – for example, this can mean cutting out the need for signatures and in-per-

son appointments, replacing paper documentation with digital queries, or increasing the level of automation in administrative processes. The NKR sees the digital-readiness check as one element of broader efforts to invest more time in assessing feasibility and achieving noticeable improvements in the quality of legislation. Digitalreadiness and feasibility checks go hand in hand and must become a systematic part of the drafting and review (evaluation) of legislation.

4. Good governance requires good regulation: avoid fast-track legislative procedures and invest more time in effectiveness and feasibility

Effective and efficient legislation is the basis for good governance. Quality requires time and means drawing on the practical expertise of practitioners and other stakeholders. This is the only way to avoid expensive mistakes and ensure that implementation is as simple as possible – which the Federal Government often fails to do. Frequently, it does not comply with its own rules of procedure, even for legislation that is not an urgent response to a crisis. Less and less time is being allocated for general and inter-ministerial consultation, and dialogue with stakeholders is becoming mere empty theatre. Indeed, the deadlines imposed on the NKR itself are increasingly so tight as to render rigorous scrutiny of draft legislation almost impossible. Even allowing for the pressures of a faster-paced, media-driven world of politics, the fact remains that more time is essential to improving regulatory outcomes. In future, the NKR will take

a closer look at the time limits set in legislative procedures and make these a matter of public record.

5. OZG 2.0: last chance for a digital public administration

Simple, user-friendly online processes facilitate dealings with public authorities and are key to reducing bureaucracy. Germany had for years lagged behind other countries in this area, but the Online Access Act (*Onlinezugangsgesetz, OZG*) passed in 2017 was designed to change all that. It has not. Despite some success and much hard work by those involved at a Federation, Länder and municipality level, only 33 of 575 administrative services to be provided under the OZG are to date available across the country, and that just two months before the deadline for implementation. These delays are a result of as yet unresolved structural challenges in how the various levels of government work together, complex systems of coordination and a lack of standardisation and of binding requirements. Many are calling for successor legislation to the Online Access Act. Any such legislation must take an honest look at the difficult experiences gained so far. There must be a candid and open-minded discussion between the Federal Ministry of the Interior and Community (*Bundesministerium des Innern und für Heimat, BMI*) – the lead ministry – and practitioners and stakeholders on the ground. A strategic change in political approach is needed, and recommendations on what form this could take are set out in this report (*cf. Chapter 3*).

Introduction

Annual reports from the National Regulatory Control Council (NKR) generally cover the period from July of the previous year to June of the current year and are submitted to the Federal Government in the autumn. The fact that the 2022 annual report is only being published in December clearly illustrates that this last reporting period was exceptional, and a time of considerable upheaval.

At an internal level, the new NKR was appointed and the Council moved to the Federal Ministry of Justice. At the same time, there were also major developments both within Germany and beyond. The new Federal Government had only just launched an ambitious programme of modernisation when it was confronted with the enormous challenges of the war in Ukraine. It has been operating in permanent crisis mode ever since. And we are once again seeing the same structural issues that have hampered Germany in previous crises. In recent years, a lack of IT infrastructure delayed provision of Covid assistance. Now, the problem is the difficulty of providing targeted energy cost support. At a time when Germany's focus should be on accelerating planning and approval procedures to drive forward the energy transition and eliminate dependence on Russian energy, the entire country is occupied with complicated changes to how property tax is calculated – a bureaucratic burden that should have been foreseeable and, more importantly, avoidable. In short, faced with one bureaucratic hurdle after another, Germany is now worried about the future of its economy and its very strength, resilience and capabilities as a country. Concerns are already being voiced that Germany will once again become the sick man of Europe; a country that dragged its feet on reform when its economy was doing well.

The NKR's core mission is assessing the cost implications of legislation and avoiding unnecessary expense. As part of that core mission, the Council has over the years made numerous recommendations for simplifying and improving the quality of regulation, for the digital transformation of public administration, and for modernising the state. Those recommendations remain just as relevant now as they have ever been in the light of both new and continuing challenges. The NKR will begin its fourth term of office by exploring what changes might be needed to its methodology and focus as it seeks to drive forward bureaucracy reduction and better regulation even more effectively. This annual report, parts of which cover the previous Council's term, can therefore be understood as an overview of the current state of play.

The new NKR has now been in place for over six months and has made a number of organisational changes. It has also been given an important new role: assessing the digital-readiness of legislation. Current challenges make the NKR more determined than ever to contribute to Germany's modernisation. The Council will continue to support the Federal Government by providing constructive suggestions and an independent viewpoint. It will also advocate ambitious policy and a fresh start on reducing bureaucracy.



Lutz Goebel
Chairman of the National Regulatory
Control Council

13 Dezember 2022

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1

*A fresh start on
reducing bureaucracy:
continuity and change*

The third NKR term ended on 20 September 2021. However, the outgoing Federal Government did not make the next round of Council appointments, instead ruling on 15 September that the existing NKR members were to continue in their posts as a caretaker council until further notice.

Following the election of the 20th German Bundestag on 26 September 2021 and the formation of the new Federal Government, the Federal Chancellor issued an organisational decree on 8 December moving responsibility for the NKR to the Federal Ministry of Justice.

The Act Establishing a National Regulatory Control Council was amended to allow the official transfer of the “Bureaucracy reduction and better regulation” programme to the Justice Ministry. The NKR’s oversight mandate was also expanded to include scrutiny of a digital-readiness check.

Appointments to the fourth NKR were made in April and the Council members received their certificates of appointment from the Federal President Frank-Walter Steinmeier on 17 May 2022. One member of the Council could not be appointed until July. The Federal Minister of Justice, Dr Buschmann, appointed Lutz Goebel as the new chair of the NKR and the NKR Secretariat moved to the premises of the Federal Ministry of Justice.

A new government and new responsibilities; a new NKR and a new chair; an amended Act Establishing a Regulatory Control Council and a broader mandate: all these changes have posed

a number of challenges for the NKR as an organisation, but also open up new opportunities.

The following pages introduce the current members of the NKR and set out how the Council sees its future position in terms of continuity and new strategic focuses, and how it views its move to the Federal Ministry of Justice.

1.1. The members of the NKR

The NKR is a panel of experts that advises the Federal Government. Its members therefore require experience in legislative matters within institutions of state or civil society, and knowledge of economic affairs (see section 3 of the Act Establishing a National Regulatory Control Council). Like previous Councils, the current Council meets this requirement. The members of the NKR have wide-ranging political, economic, legal, scientific and administrative expertise.

Four members of the current Council also served on the previous one. Six members are new. Garrelt Duin, Lutz Goebel, Dr Reinhard Göhner, Ulla Ihnen, Kerstin Müller and Malte Spitz are new to the NKR. The previous members Gudrun Grieser, Prof. Sabine Kuhlmann, Dorothea Störr-Ritter and Andrea Wicklein have remained in post. Lutz Goebel has been appointed as the new chair of the NKR. He takes over from Johannes Ludewig, who chaired the Council for 15 years before leaving office at the end of 2021. Prof. Sabine Kuhlmann was re-elected by the new Council as deputy chair.



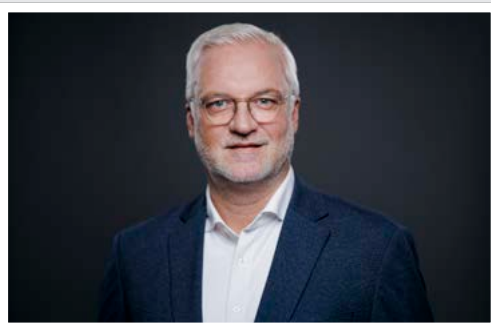
Lutz Goebel (Chair)

Managing partner of Henkelhausen GmbH & Co. KG; former president of “Die Familienunternehmer”, an association of family-run companies



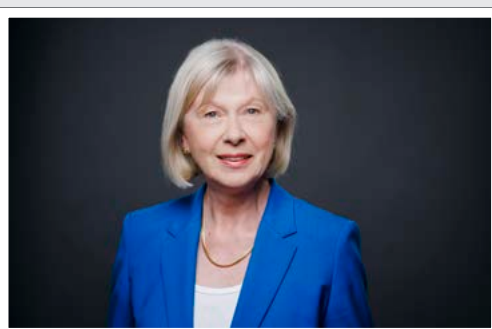
Prof. Dr. Sabine Kuhlmann (Deputy Chair)

Chair of Political Science, Public Administration and Organisation at the University of Potsdam; Hedda Andersson Chair at the University of Lund, Sweden



Garrelt Duin

Chief executive of Cologne Chamber of Skilled Trades (Handwerkskammer zu Köln); former North Rhine-Westphalian Minister for Economic Affairs, Energy, Industry, SMEs and the Skilled Trades Sector



Gudrun Grieser

Former mayor of Schweinfurt and chair of the university council at the University of Applied Sciences Würzburg-Schweinfurt



Dr. jur. Reinhard Göhner

Employment lawyer and director of ISWA gGmbH in Berlin; former executive director of the Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA)

Ulla Ihnen

Jurist in public administration and member of Hanover City Council; former Hanover State Sec-retary for Environment, Energy and Climate Action



Kerstin Müller

Senior associate fellow at the German Council on Foreign Relations (Deutsche Gesellschaft für Auswärtige Politik, DGAP); former minister of state at the Federal Foreign Office (Auswärtiges Amt) and parliamentary group chair in the German Bundestag



Malte Spitz

Co-founder and secretary general of the Society for Civil Rights (Gesellschaft für Freiheitsrechte, GFF); head of the “Digital innovations and digital infrastructure” (“Digitale Innovationen und digitale Infrastruktur”) working group during the 2021 German coalition negotiations



Dorothea Störr-Ritter

District commissioner of the District of Breisgau-Hochschwarzwald; former president of the German association for the self-employed (Bund der Selbstständigen Deutschland e.V.)



Andrea Wicklein

Partner at Republic Affairs GmbH; director of the association of former members of the German Bundestag and of the European Parliament, Vereinigung der ehemaligen Abgeordneten des Deutschen Bundestages und des Europaparlaments



Each term of office for members of the NKR is five years, as set down in the Act Establishing a National Regulatory Control Council. Reappointment is possible. Council members may not belong to a legislative body or to a Federation or Land authority during their term of office. They are fully independent, both in their work scrutinising the legislative process and in their proposals for reducing unnecessary bureaucracy and cost.

More information on the individual members of the Council can be found in the appendix.

1.2. A new framework for the NKR

Responsibility for the “Bureaucracy Reduction and Better Regulation” programme moved from the Federal Chancellery to the Federal Ministry of Justice when the new Federal Government took up office. The Act Establishing a National Regulatory Control Council was amended prior to the change so that the NKR could also move to the Federal Ministry of Justice. This, however, has not altered the duties of the NKR, primary amongst which is the scrutiny of regulatory initiatives from the Federal Government. The NKR is and remains an independent and cross-party body. Indeed, the introduction of the digital-readiness check and its inclusion in the Act Establishing a National Regulatory Control Council has widened the NKR’s mandate. For its part, the Federal Ministry of Justice has created a dedicated directorate for NKR issues, suggesting that greater importance is now being accorded to the Council’s work.

However, the organisational changes have also created new challenges for the NKR. For example, the NKR Secretariat has to a large extent had to be rebuilt: two thirds of the staff who

previously worked at the Secretariat were not part of the move to the Ministry of Justice. This has had a considerable impact on the work of the NKR and the Secretariat, and increased their workload. Like the NKR itself, the NKR Secretariat team is also interdisciplinary. Social scientists and economists have always been employed in the NKR Secretariat alongside legal personnel. This important mix must be maintained. To this end, the system of staff rotation in place at the Federal Chancellery should continue to apply for the NKR in its new home at the Federal Ministry of Justice.

Amendment of the Act Establishing a National Regulatory Control Council

The 2006 Act Establishing a National Regulatory Control Council is the legal basis for the work of the NKR as an independent body advising the Federal Government. The Act had last been amended in 2011, when compliance costs were added to the range of bureaucracy costs that the NKR was to determine and present. A further amendment was required for the transfer of responsibility for the NKR from the Federal Chancellery to the Federal Ministry of Justice, and the amended Act entered into force on 23 June 2022. The latest amendments also include a number of minor changes: former members of legislative bodies may now be appointed to the NKR as soon as they leave office, and the chair of the NKR may not serve more than two terms in the post. The most far-reaching change to the content of the Act is the extension of the NKR’s mandate to include the “digital-readiness check”. From January 2023, the NKR is to review – just as it already does for compliance costs – the extent to which digital implementation options for new regulations have been explored. The methodology to be followed by the ministries is to be developed by the Federal Government, with the NKR closely involved in the process (*cf. Chapter 3*).

New structures at the Federal Ministry of Justice and in the Federal Government

The transfer of responsibility for the NKR to the Federal Ministry of Justice also means organisational changes within the Federal Government. Mr Benjamin Strasser, Parliamentary State Secretary at the Ministry of Justice, has been appointed as the new Federal Government Commissioner for Better Regulation and Bureaucracy Reduction. He now presides over the Federal State Secretaries' Committee, to which all federal ministries belong and which the NKR chair may attend on invitation.

A new Directorate D "Better Regulation, Digital Society and Innovation" has been set up at the Federal Ministry of Justice. It brings together what was the Bureaucracy Reduction Unit at the Federal Chancellery and existing divisions at the Ministry of Justice that work on better regulation, legal drafting and the language of legislation. The Federal Ministry of Justice already advised the other federal ministries on the overarching legal framework and formal drafting requirements for their legislative proposals; the new impact analyses thus build on an existing focus of the Ministry's work. Bringing together the various teams in a new directorate is a positive move. The NKR also sees it as a clear statement by the Federal Ministry of Justice that it intends to increase the focus on and political priority accorded to bureaucracy reduction and better regulation.

For the NKR, one element of political prioritisation is for the Federal Government to move rapidly on the Bureaucracy Reduction Act announced in the coalition agreement and to seek an ambitious, measurable reduction of at least one billion euros in the regulatory burden. This could be done in the form of a single piece of legislation covering a range of policy areas. Another equally feasible option, and one that might in fact be more effective, is measures targeted at specific po-

licy areas, all under the same programme but each managed individually by the competent ministry. A third, much more ambitious – and thus potentially much more productive – approach would be to draw on practical experience to pinpoint priority areas in which bureaucratic hurdles are caused by combinations of different legal requirements and therefore cannot be addressed by just one ministry. A cross-ministry strategy centred on practical implementation would give fresh impetus to the fundamental task of putting together substantive measures to cut the regulatory burden. This is particularly important given how laborious and slow-moving this process was in the previous legislative period.

Past experience with the various Bureaucracy Reduction Acts has, moreover, shown that the Federal Government can only achieve success in this area if all parties work together and the task is not considered simply as the responsibility of one specific ministry. All ministries have a role to play in reducing bureaucracy and the Federal Chancellery is key to coordinating efforts, even if it is no longer responsible for the outcome.

Systemic measures and mechanisms that apply to all legislative projects have a deeper and longer-term impact than one-off bureaucracy reduction acts. Good drafting technique and the ability to engage with stakeholders and to "design" legislation that is fit for practice are not innate skills. Legal drafting improves with training, tools and support in the drafting process. The NKR believes that the lawmaking and legal drafting centre announced in the coalition agreement is the right place to start providing that support, and could be a key organisational innovation.

1.3. *Modernisation with an ambitious coalition agreement: targets for the new Federal Government*

The coalition agreement sets out an ambitious modernisation agenda for the Federal Government. It defines targets and measures that could signal significant progress on bureaucracy reduction, better regulation, digital public administration and a modernised state. Many of the measures had been called for by the NKR in its 2021 position paper “Germany is too complicated – in fact, in thought and in action. What steps are needed now to future-proof the state and public administration” (“Deutschland ist, denkt und handelt zu kompliziert. Was jetzt getan werden muss, um Staat und Verwaltung zukunftsfest zu machen”).¹ The first section in the coalition agreement is entitled “A modern state, digital transformation and innovation”, which shows just how important these issues were to the coalition parties. Ultimately, a strong public administration and effective structures in government are essential if we are to manage the major transformations of our time and maintain acceptance of and trust in the state and that administration

The 10 most important areas in the coalition agreement from an NKR perspective are as follows:

1. *A commitment to a strong and capable state that works rapidly*, effectively and proactively, that offers greater transparency on and involvement in its decisions, and that makes the lives of its citizens easier through a fast, simple, digital and user-centred public administration.
2. *Improvements in legislative quality* and new forms of cross-ministry discussion of regulatory initiatives at an early stage in the process. Greater involvement of stakeholders and practitioners, and greater consideration for the experiences and needs of the Länder and municipalities. This is to be facilitated by new feasibility and digital-readiness checks, a lawmaking and legislative drafting centre and a digital legislation portal that makes lawmaking more open and transparent.
3. *Simplification of rules and procedures*, the launch of a new Bureaucracy Reduction Act and a continuing commitment to the “one in, one out” approach. Simplification in practice is to be achieved with targeted legislative initiatives such as an unbureaucratic basic child allowance (Kindergrundsicherung), a simple citizens’ basic income (Bürgergeld), a user-friendly immigration and residency code and the reform of the basic pension.
4. *A general clause* to overcome obstacles to digital transformation, such as the need for manual signatures; the harmonisation of legal terms such as income (Einkommen); automatic and automated procedures that are legally binding and implemented as a priority.
5. *Restructuring and bringing together responsibility* for digital transformation within the Federal Government; the definition of ambitious and measurable targets; driving forward IT consolidation and transformation of the body for federal IT cooperation (FIT-KO) across Germany into an agile and flexible digital transformation unit with greater financial resources.

¹ NKR-Positionspapier „Deutschland ist, denkt und handelt zu kompliziert“, September 2021 – <https://www.normenkontrollrat.bund.de/resource/blob/300864/1960480/28a3a910008ec91e9a1afaf4b742cc27/210916-deutschland-ist-denkt-und-handelt-zu-kompliziert-was-jetzt-getan-werden-muss-um-staat-und-verwaltung-zukunftsfest-zu-machen--data.pdf>

6. *A more digital and citizen-centred public administration* to be achieved by taking the Online Access Act (Onlinezugangsgesetz) further, securing follow-up funding, helping municipalities to take over the running of online services developed, and centring solutions on the key principles of standardisation and open source and cloud technology.
7. *Prioritisation of modernisation*, together with the rapid introduction of the once-only principle and workable identity management; rapid implementation of the business base data register (Unternehmensbasisdaten-Register).
8. *For Germany's swift modernisation*: acceleration of planning and approval procedures – processing times to be halved – and simplification and improvement of routes to avoiding legal disputes (“facilitation agencies” (Beschleunigungsagenturen), court capacity, IT interfaces, species distribution and species data, time-bar rules, early consultations between ministries on specific procedures, and public consultation at the earliest point possible).
9. *A more effective federal system*: closer, stronger and more targeted cooperation between the Federation, Länder and municipalities. This means a more transparent and efficient division of responsibilities between the various levels of government (dialogue addressing areas such as disaster management and civil protection, education, internal security and digital transformation).
10. *Facilitation of staff* moves and rotation between ministries and different levels of public administration, and between the public sector and business; a more flexible ap-

proach to selection criteria. “Bunker mentality” to be addressed; introduction of cross-ministry and inter-authority project teams and innovation units and, overall, establishment of a new culture of collaboration.

The NKR welcomes the targets and measures outlined in the coalition agreement as, in many respects, they reflect the Council’s own recommendations. The NKR trusts that it will be possible to achieve the set targets despite the ongoing crisis situation. The NKR urges the Federal Government to move forward with the practical definition of these targets. The Council is on hand to share its expertise and provide practical support.

In earlier legislative periods, the Federal Government set out practical details in work programmes for bureaucracy reduction, better regulation and a digital public administration. For the area of digital public administration, practical measures are detailed in the Digital Strategy, which was adopted in the late summer of 2022. However, these do not go any further than the measures already adopted. Further-reaching work programmes, in particular on bureaucracy reduction and better regulation, are unlikely to be introduced by the Federal Government in the current legislative period.

1.4. Reducing bureaucracy: comparing targets and reality

Over the 16 years since its establishment, the NKR has built up wide-ranging expertise that enables it to advise the Federal Government on methodology for regulatory impact assess-

ments and evaluations, and to provide strategic and practical support with other aspects of bureaucracy reduction. The Federal Government has followed many of the NKR’s recommendations as well as defining new approaches and priorities within better regulation methodology.

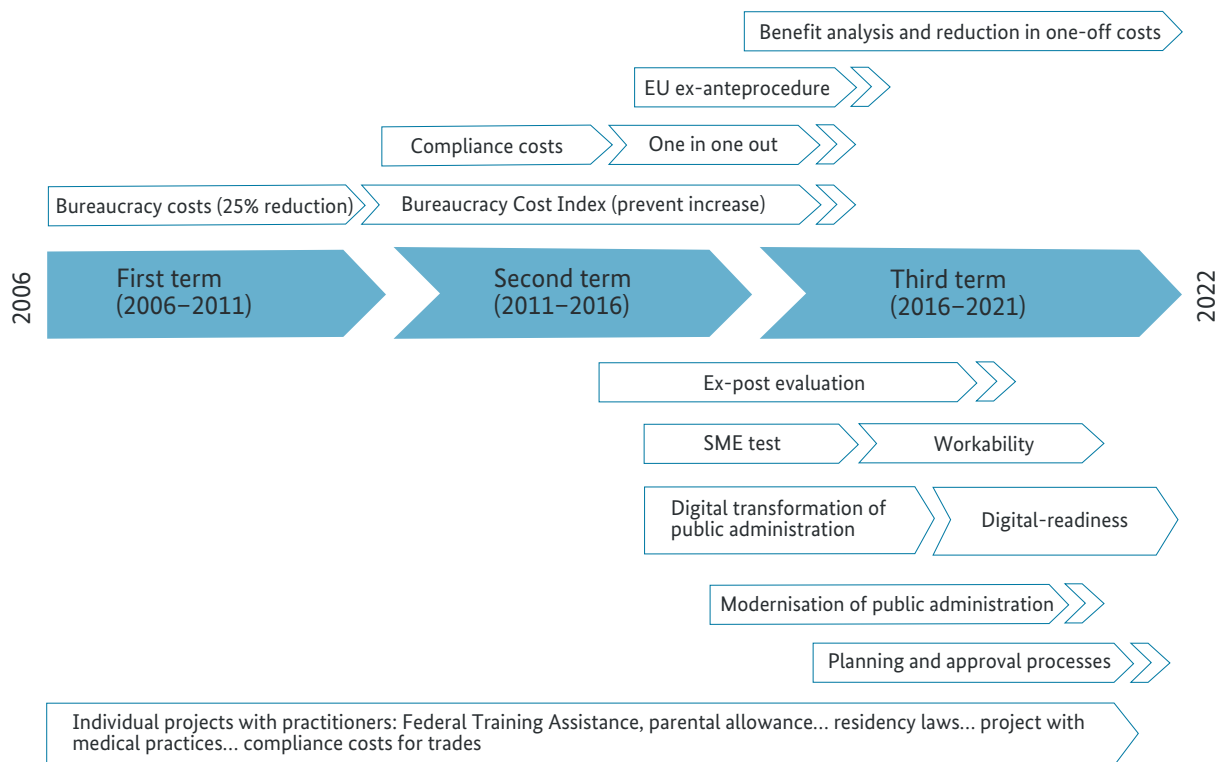


Figure 1: Development of methodology for bureaucracy reduction and better regulation

As it begins its fourth term in office, the NKR is assessing the effectiveness of this methodology. It is important that the Federal Government also do so. Feasibility aspects of legal requirements will clearly become even more important in future, not least with the introduction of the digital-readiness check. Ultimately, we want to hear from business, civil society and public administration that regulatory implementation

and compliance have become noticeably simpler and less bureaucratic.

For although previous efforts to quantify, cap and reduce the cost impact of legislation have in fact led to a statistical improvement in the bureaucratic burden, businesses have not – consciously – felt the benefits. Take, for example, the introduction of the “one in, one out” rule that requires a corre-

spondingly deregulatory measure to be introduced for every measure that increases the regulatory burden. This reversed the trend of increasing compliance costs for business and was supported by a number of Bureaucracy Reduction Acts.

Yet the business sector is sending increasingly insistent warnings of an overwhelming regulatory burden – not least because of the simultaneous pressures it faces as a result of the recent series of crises.

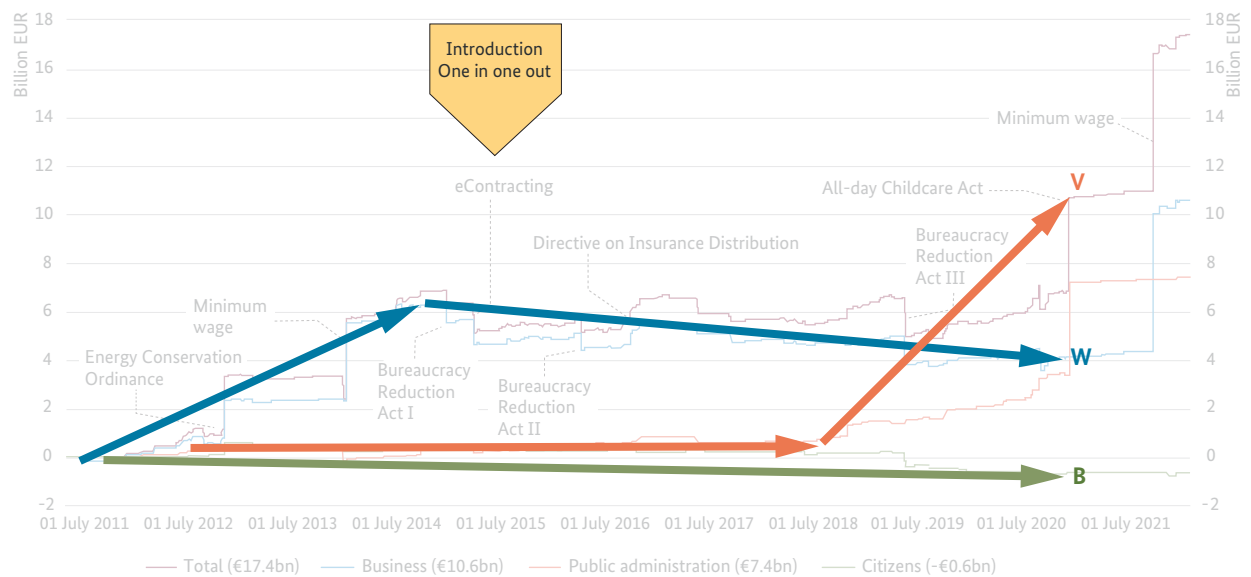


Figure 2: Compliance cost trends

Surveys and studies regularly find that bureaucratic rules and procedures are among businesses' greatest concerns. Businesses spend a considerable proportion of their turnover (approx. 3%)² on compliance with regulatory requirements.

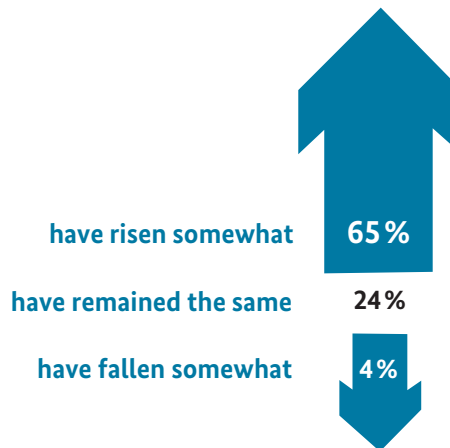
They also feel as if those requirements are increasing – despite visible efforts over recent years to reduce the burden. The IfD Allensbach institute translated this perception into figures in a study in the autumn of 2022.

² DIHK-Sira-Studie 2021 „Bürokratiebelastung für Unternehmen bremsen“ – <https://www.dihk.de/resource/blob/18690/d9172ef787eef2f-6d984a8754051675a/studie-buerokratieabbau-data.pdf>

Costs incurred by businesses in dealings with the public administration have risen since 2015

Question: “Do you feel that the costs you or your business incur in dealings with the public administration have fallen, have risen or have remained the same over the past seven years i.e. since 2015?”

The costs my business incurs in dealings with the public administration:



Not shown: don't know; no response

Basis: Federal Republic of Germany, managers of private-sector businesses with at least 10 employees or annual sales of more than 2 million euros

Source: Allensbacher Archiv, IfD Allensbach institute survey 8298 (IfD-Umfrage 8298)

© IfD-Allensbach

Figure 3: Perceived costs have increased

The same is true for citizens and public administration itself (in particular at a district and municipality level), and this is just as important: negative public perceptions in particular can lead to a highly bureaucratized state's losing acceptance and trust. It is worth noting here the warnings from the German Civil Service Federation (Deutscher Beamtenbund, dbb) that the state administration is on the brink of collapse, faced with worsening staff shortages and a simultaneous increase in new statutory monitoring and administrative responsibilities.³ Initiative D21's eGovernment Monitor 2022 study summarises the situation for citizens as follows: Trust in the state is much stronger (80 percent) amongst people

who see the state as simplifying their lives than it is on average in the population as a whole (38 percent). This positive link is confirmed by other statements on the capability and effectiveness of the state. The same logic would suggest that trust is squandered when citizens rate the state's capability and effectiveness poorly because of unsatisfactory implementation or unsatisfactory digital service provision.⁴

Public resentment is fuelled both by the personal experiences of those affected and by the perceived negative impact of excessive bureaucracy on various levels of society. If bureaucratic regulations and administrative procedures hinder im-

³ FAZ, 10 January 2022, Beamtenbund warnt: „Der Staat fliegt uns um die Ohren“ – <https://www.faz.net/aktuell/wirtschaft/beamtenbund-warnt-der-staat-fliegt-uns-um-die-ohren-17724845.html>

⁴ eGovernment Monitor 2022, 12 October 2022, p. 40 – <https://initiatived21.de/egovmon22/>

portant processes of reform such as the climate-neutral transformation of the business sector or digital transformation, or pose an obstacle to research and innovation, this surely undermines Germany's resilience.⁵

1.5. Outlook

The NKR takes ongoing or indeed growing dissatisfaction with excessive bureaucracy very seriously, and one aspect that must be addressed is the gap between measurable statistical improvements and a perceived increase in the bureaucratic burden. That is why the NKR is seeking to reassess the strategic focus of its work and to consult with the Federal Government on potential improvements

to the methodology and procedures for cost impact assessments.

By the spring of 2023, the aim is also to establish what long-standing priority areas we can build on, and what new priorities ought to be defined. We will be looking at digital transformation and the modernisation of public administration, which our initial assessment at the start of the fourth NKR term indicates will become ever more important.

Chapters 2 and 3 give an in-depth assessment and practical recommendations for the areas of better regulation and digital-readiness checks, a digital public administration and a modern state. Our assessment of compliance cost trends in the current reporting period follows in Chapter 4.

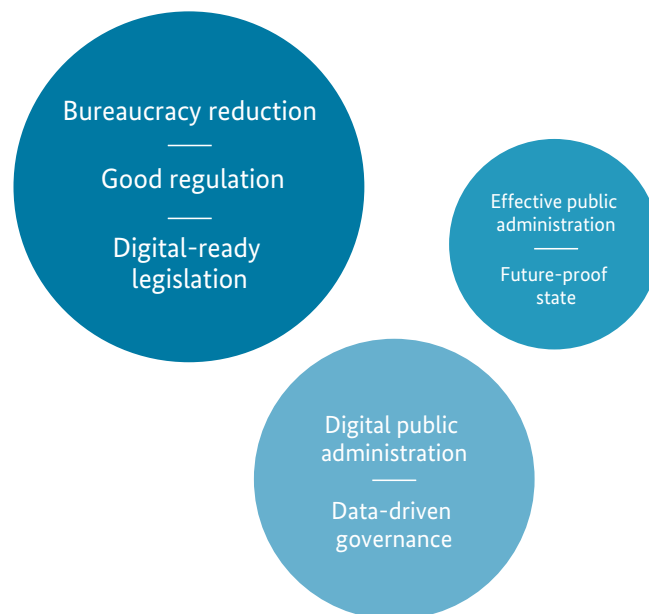


Figure 4: Areas of NKR work

⁵ Expertenkommission Forschung und Innovation EFI: Wie Bürokratie die Forschung bremst – vor allem in der Medizin, Handelsblatt, 15 October 2021 – <https://www.handelsblatt.com/politik/deutschland/buerokratie-serie-wie-buerokratie-die-forschung-bremst-vor-allem-in-der-medizin/27657626.html>

2

Better regulation and digital-ready legislation

2.1. A digital world needs digital-ready legislation: the digital-readiness check

Laws and ordinances define not just regulatory objectives but also how those objectives are to be achieved. For example, they may stipulate the basis for administrative decisions (conditions and documentation), what bodies are to be involved and how, and whether paper documentation and manual signatures are required. The limitations of analogue processes are becoming clear in an increasingly digital world. Requirements for manual signatures, in-person appointments, etc. prevent us from harnessing the full potential of digital processes.

The realisation that digital implementation requires digital-ready legislation is not new; isolated attempts were made in previous legislative periods to make legislation more digital-ready. Indeed, the NKR submitted a number of proposals on this issue.

The decision of the German Bundestag in mid-2022 to introduce a systematic digital-readiness check is therefore an important milestone. The inclusion of the check in the Act Establishing a National Regulatory Control Council lends additional weight to the Federal Government's initiative: the check is to apply to all new regulatory initiatives from January 2023 onwards and the NKR is to monitor compliance.

As with scrutiny of other regulatory impact assessments required from the federal ministries, the NKR scrutiny will be based on the methodology that the Federal Government has set out. The NKR has a role to play in the development and amendment of that methodology, and will share its experience from its daily work and the findings of expert reports.⁶ The Council will document its findings in its statements on draft legislation, which are published once they have been reviewed by the Cabinet.

Together, the Federal Government and the NKR are aiming to launch an initial version of the digital-readiness check from 1 January 2023. Subsequent versions are to follow, with an agile approach to developing the methodology as the roll-out proceeds.

The NKR see the following aspects as key to a successful digital-readiness check:

- **Definition of scope:** The initial version of the digital-readiness check should focus primarily on interaction between citizens and the state and between businesses and the state (public administration: service provision and statutory enforcement). First in specific cases and then, ultimately, systematically, it should also cover interactions between citizens and the private sector.

⁶ NKR-Gutachten 2020 „Digitale Verwaltung braucht digitaltaugliches Recht – Der modulare Einkommensbegriff“ – <https://www.normenkontrollrat.bund.de/nkr-de/service/pressemitteilungen-abonnieren/nkr-gutachten-digitale-verwaltung-braucht-digitaltaugliches-recht-der-modulare-einkommensbegriff-1930016>

- **Ex-post assessment:** The digital-readiness check should not just be used ex ante, i.e. during the drafting of legislative proposals. An ex-post evaluation should examine the specific area of law in question and also, and more importantly, the general law of administrative procedure in the light of digital-readiness criteria.
- **Active promotion of digital transformation:** The digital-readiness check should not be limited to overcoming analogue obstacles to digital implementation; it should play an active part in simplifying implementation and harnessing the full potential of digital transformation for improving efficiency. Most importantly, the check should help drive standardisation and automation, take account of relevant requirements under any new Online Access Act and the Act to Promote Electronic Government (E-Government-Gesetz), and make use of basic infrastructure components from a federal IT network. Overall, this proactive approach should lead to “digital by default” regulatory implementation and facilitate practical delivery for the IT developers involved. Implementation at a local level should be examined more closely than has previously been the case and, where possible, definitive parameters should be set for decisions in clearly defined standard cases. This will make administrative decisions and their digital or even automated implementation easier.
- **Defined stages of development:** The Federal Government must define a binding development roadmap that clearly shows the stages in which and by when specific developments are to be achieved. By 2025, digital-readiness check methodology should be reasonably comprehensive and easily applicable, and the check should have moved on from relatively simple issues, such as removing the need for manual signatures, to access to existing data and more complex issues such as the automation of legislative implementation.
- **Simple methodology:** From the outset, the digital-readiness check must be intuitive and the methodology simple. Changes found to be necessary in everyday practice must be implemented rapidly. It must be possible for minor alterations to be decided on by a core team consisting of the Federal Ministry of the Interior and Community, the NKR and other selected ministries (agile project management). This approach should enable the rapid replacement of disproportionately complex and unproductive methods with more effective and efficient measures. Ongoing evaluation of workability and effectiveness is essential.
- **Support:** Although the methodology needs to be kept simple, certain key questions can be highly complex. Additional tools are therefore required so that the practical, technical and legal aspects of questions raised by the digital-readiness check can be easily addressed even by legal drafters with relatively little knowledge of the processes. One tool already available is the data security assessment. If it were easy for legal drafters to sort regulations into pre-defined categories, certain questions would be answered automatically – such as what identification and authentication routes are required in a given case and the technological solutions available for this, and what standard legal wording should be used for legally equivalent electronic alternatives to manual signatures, or for digital queries. Standard wording could be set out in administrative procedure law or in the Act to Promote Electronic Government and then referenced in other legislation.
- **IT security and data protection:** Digital-readiness checks must take account of IT security,

data protection and data access requirements for data reuse and public data access so that the necessary legal and procedural basis is ensured from the outset.

- **Infographics and process input:** A key tool for the digital-readiness check is process infographics, for example the visuals provided as part of Federal Information Management (Föderales Informationsmanagement, FIM) Used together with decision trees, infographics should become a standard tool for legal drafters and a standard basis for discussions with IT and regulatory implementation experts and other stakeholders. “Legislation labs” or similar events could be used to further those discussions.
- **Prioritise coaching over training courses:** The aim must be to make methods and tools so intuitive that training courses are in principle unnecessary. However, individual support must nonetheless be provided. The best-case scenario would be for divisions responsible for legislative drafting to be offered coaching on a case by case basis. Guides and checklists should be provided through the e-legislation platform to be introduced by the Federal Government.
- **Lawmaking and legal drafting centre for support and methodology:** A specialist body should be tasked with developing and providing the required support services, and with continuing to improve and adapt the methodology in the long term. The planned lawmaking and legal drafting centre should take on this role, and should be set up as soon as possible. A task force for the digital-readiness check could be based at the centre to assist the relevant ministries with digital-readiness for urgent regulatory initiatives.

2.2. Comprehensive input: enough time for feasibility checks

The digital-readiness check covers aspects of feasibility and user-friendliness. Both these areas are central to better regulation in general and not just digital-readiness. Stakeholders have the requisite understanding of how regulations work and interact with other requirements and standards in practice, and they are familiar with the practical implementation issues and technical possibilities. Building up that expertise is not the challenge; the challenge is being able to engage with it and draw on it from an early stage in the legislative process, for there are many factors and pressures that shape the drafting processes at the various ministries and the legislative process as a whole. Haste is now an increasingly common feature of lawmaking – and not just for urgent legislation in crisis situations. The consultation periods set out in the Joint Rules of Procedure of the Federal Ministries (Gemeinsame Geschäftsordnung der Bundesministerien) for input from other ministries are all too often ignored. Periods for consultation with associations, Länder, municipalities and other stakeholders are not even officially defined. It is therefore hardly surprising that the lead ministries often treat such consultation as a mere formality and do not make a serious effort to explore implementation issues or consider possible alternatives and the available evidence.

How consultation periods are handled is of fundamental importance to potential improvements in legislative quality and workability. Neither feasibility nor digital-readiness checks are possible without sufficient consultation periods, and limited time means only a very limited assessment of the effectiveness and cost implications of regulatory options. Time is therefore central to good regulation.

In the view of the NKR, a clear change of direction is required: the trend over recent years towards ever tighter deadlines must be reversed (cf. fig. 5). Within the Federal Government, the Federal Chancellery has a particularly important role here, as it is largely responsible for Cabinet scheduling. Whilst we understand the urgency required at times of crisis, it is quite simply unacceptable that often only a few days, and in some cases only a matter of hours, are set aside for consultation and scrutiny. These time constraints are particularly problematic for the NKR, as the ministries frequently only deal with information on compliance costs and other aspects of better regulation right at the end of inter-ministerial consultation. The periods set out in the Joint Rules of Procedure of the Fed-

eral Ministries must be respected. Reduced consultation periods must once again genuinely be the exception, and not the exception that has become the rule. Otherwise, rigorous scrutiny by the NKR will become extremely difficult, if not impossible. The same is true for consultation with the Länder and the relevant associations. As it can be assumed that we will continue to be confronted with crises in the future, the NKR sees the need for a strategy to ensure sufficient time and space for quality assurance and genuine consultation in legislative processes even when the Government is in crisis mode. The NKR will from now on look more closely at the issue of time, and will document and evaluate the timelines of regulatory initiatives in more detail.

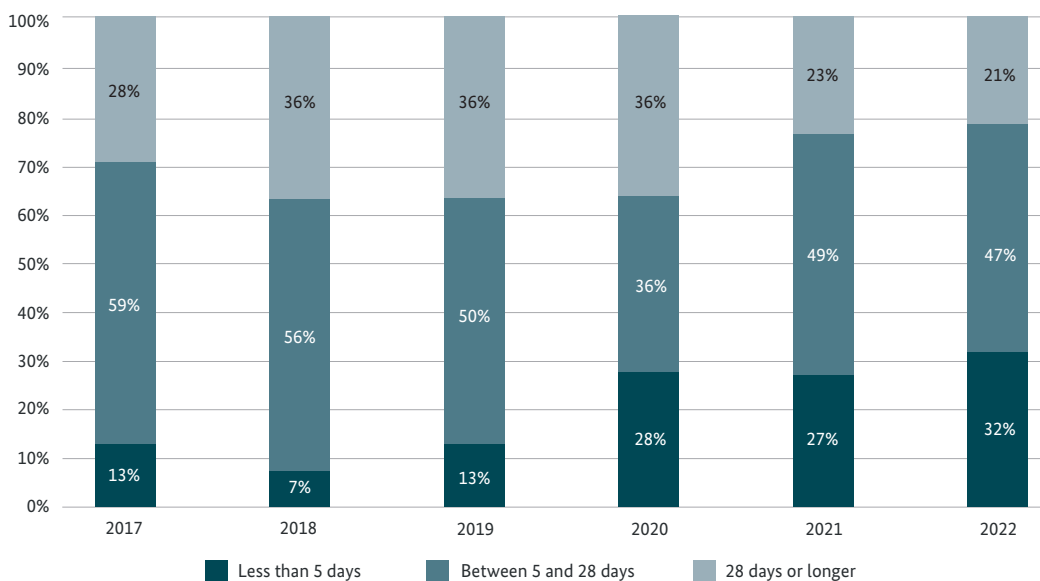


Figure 5: Consultation and scrutiny periods for regulatory initiatives in the years 2018–2022 (proportion of regulatory initiatives scrutinised)

The negative impact of flawed and rushed consultation procedures on the quality of legislation, in other words on how workable, effective and stakeholder-centred it is in practice, was examined in detail in the NKR report “Content

First, Legal Text Second” (“Erst der Inhalt, dann die Paragraphen”). [www.gute-gesetze.de] The report recommended a much greater focus on input from practice and openness to different solutions in the legislative process, recommen-

dations that were tested in a project in practice and proved valid. More recently, the “Re-designing the ministerial drafting process” (“Re-Design der ministeriellen Gesetzesvorbereitung”) project run by Work4Germany has explored the issues in more depth and similarly advocated a reform of the lawmaking process.⁷ All these suggested reforms are aimed at bringing specialists in legal drafting in the various ministries together with experts with practical knowledge and experience, with other stakeholders, with IT specialists and with researchers. One proposed initiative is “legislation labs”: a place where interdisciplinary teams use causal and process models to evaluate the intended and unintended consequences of various regulatory options and identify suitable solutions.

A pilot project run by the Federal Ministry for Economic Affairs and Climate Action (Bundesministerium für Wirtschaft und Klimaschutz) has shown that this close consultation with stakeholders from practice does indeed lead to more effective, more efficient regulation and better policy outcomes. The project involved a feasibility check, conducted in direct consultation with the addressees of a particular regulation and with a strong focus on implementation. The check examined legal obstacles to a more widespread use of photovoltaic panels on the roofs of retail premises. In this case, the feasibility check was not part of an ongoing legislative initiative and was therefore not affected by time constraints or other serious political pressures. The check revealed aspects of the regulation that clearly needed to be – and could easily be – changed. Some of those changes have already made their way into legislative amendments.

Evidently, therefore, there is no clear boundary between ex-ante and ex-post assessment, which is why researchers in the field use the term „policy-making cycle“. Feasibility checks should therefore not only be used ex ante while legislative proposals are being developed; they should also be an integral part of ex-post evaluation and the basis for future amendments. In a hectic political environment, more extensive ex-post analysis is an opportunity to invest in making regulation more workable without the constraints of deadlines in the initial legislative process. Political objectives can only be translated into effective and efficient regulation if political decision-makers demand workable, evidence-based legislation and allow ministries the time and resources to produce it. Effective governance starts with good legislation.

The Länder and municipalities have repeatedly expressed a desire to be more involved in the legislative process. Back in 2020, the Conference of Minister-Presidents of the Länder adopted a “Joint roadmap from the Federation and the Länder for a strong, citizen-friendly and business-friendly public administration” (“gemeinsames Programm von Bund und Ländern für eine leistungsstarke, bürger- und unternehmensfreundliche Verwaltung”). The roadmap includes a call to involve stakeholders more effectively and at an early stage in the process, and for sufficient time to be set aside for input from outside stakeholders at the formal inter-ministerial consultation stage. In practice, however, nothing has changed as yet. This is evident from NKR statements, in which the most common criticism is inadequate implementation cost information as a result of failure to involve the Länder and municipalities.

⁷ Diskussionspapier „Re-Design der ministeriellen Gesetzesvorbereitung“ – <https://work-archive.4germany.org/project/ministerielle-gesetzesvorbereitung-fellows-2020/>

The NKR anticipates the backing of its sister institutions in the Länder in its efforts to improve regulatory impact assessments across the federal multi-level system of government. Bavaria joined Saxony and Baden-Württemberg in setting up its own Land NKR during the reporting period and North Rhine-Westphalia and Lower Saxony each have a “Clearingstelle Mittelstand”, a regulatory scrutiny body focusing on impact on SMEs. There is thus a growing number of institutions specialising in bureaucracy reduction.

2.3. *RegWatchEurope and developments in the EU*

A considerable proportion of regulations that affect business and public administration originate at the EU level. German federal ministries have an obligation to examine EU requirements in what is known as the EU ex-ante procedure to gain a clearer picture of the cost implications for Germany, and to allow avoidable costs to be addressed in Brussels. There are also efforts at an EU level to reduce bureaucracy alongside these domestic measures. The European Commission in particular and increasingly also the European Parliament

conduct impact assessments for their own legislative proposals.

In its Better Regulation Communication of 29 April 2021, the Commission announced a number of measures to improve the existing system. One of the key new features was the official introduction of a “one in, one out” approach at an EU level. The approach was piloted in the second six months of 2021 and applies as of 2022 to all new initiatives based on impact assessments. The new rule only covers the costs of bureaucracy to business and to citizens. It is still too early to assess the rule’s effectiveness; the first review is scheduled for 2023.

Another change is a broadening of the mandate of the Regulatory Scrutiny Board (RSB), which is based at the European Commission. The new areas for scrutiny include the “one in, one out” rule, climate and environmental impact assessments and strategic foresight.

Discussions with EU institutions primarily take place as part of the RegWatchEurope network, which is currently chaired by the NKR’s sister body in the Czech Republic, the Regulatory Impact Assessment Board.

What is the RegWatchEurope network?

The NKR belongs to the RegWatchEurope network, which currently comprises eight independent oversight and advisory bodies in Europe. Like the NKR, the other bodies are tasked with reviewing impact assessments and providing information and recommendations for better regulation. The seven members alongside the German NKR are as follows:

- *the Adviescollege Toetsing Regeldruk (ATR) from the Netherlands*
- *the Danish Business Regulation Forum (DBRF)*
- *the Finnish Council of Regulatory Impact Analysis (FCRIA)*
- *the Swedish Better Regulation Council (SBRC)*
- *the Norwegian Better Regulation Council (NBRC)*

- the Regulatory Impact Assessment Board (RIAB) from the Czech Republic, and
- the Regulatory Policy Committee (RPC) from the United Kingdom

RegWatchEurope seeks to share experience and examples of best practice on bureaucracy reduction and better regulation through workshops and regular meetings. At the EU level, the network advocates for members' common interests, for ex-ample in representations to the Vice-President of the European Commission, Maroš Šefčovič. The network's chair changes each year, where possible in line with the EU Council presidency.

RegWatchEurope's current priorities include:

- **More effective and efficient implementation of EU law by the Member States:** in a letter to Vice-President Šefčovič, the network called on the European Commission to focus more on these aspects of regulation.
- **Lessons from legislating in crises:** drawing on members' experiences of legislation during the Covid-19 pandemic, the network organised a workshop at the Conference of Directors and Experts of Better Regulation (DEBR). The event focused on the use of impact assessments, consultation procedures and the ex-post evaluation of legislation drafted during the crisis.
- **Systematic use of the better regulation toolbox at an EU level:** in its joint response to the European Commission Communication, the network made it clear that responsibility for the quality of EU regulation lies not just with the Commission, but also with the European Parliament and, in particular, the European Council.

3

*Digital transformation
and modernisation
of public administration*

3.1. Digital transformation of public administration

Key potential for bureaucracy reduction lies in the modernisation of public administration. Applying for state benefits or services online and submitting documentation or meeting statutory registration requirements electronically saves time and expense, and cuts out waiting times. Electronic options generally also make it easier to fill out forms correctly and identify the right contact people. A successful digital transformation of public administration means simpler administrative processes, a “one-stop shop” for service provision and the retrieval of data and documentation already provided (instead of resubmission by users), as well as reducing the bureaucratic burden on citizens and businesses.















Digital processes also ease the workload for the public administration itself – and times of crisis reveal just how important that is. Registering hundreds of thousands of refugees in 2015/16; calculating and sharing Covid-19 infection rates; issuing Covid assistance and payments to offset rising energy bills: many a crisis measure would have been easier, simpler, faster, cheaper and more effective with a functioning state IT infrastructure that enabled seamless coordination between municipalities, Länder and the Federation. An effective digital public administration is thus not only a prerequisite for citizen-friendly and business-friendly services, it is also fundamental to the strength and resilience of the state itself.

Inspiring examples of leading digital nations, not to mention numerous reports over recent years, show that the successful digital transformation of the state and public administration is possible – and just what savings and service

improvements that transformation can achieve. Only Germany is struggling to get to grips with digital transformation and quickly and effectively to implement measures long recognised as necessary. Every international ranking that puts Germany amongst the poorer-performing developed nations increases awareness of the issue in this country; the problem is clearly one of implementation rather than understanding.

The Online Access Act (OZG) and the great ambitions behind it have not changed the situation. On the contrary: this is the fifth year of OZG implementation and the statutory deadline for nationwide user-friendly digitalisation of all relevant administrative services is the end of 2022. Yet there has still been no noticeable progress on the digital transformation of Germany’s public administration – and that despite statutory obligations, despite considerable efforts across all areas of public administration, and despite significant financial support from the Federation.

It is true that some of the groundwork has been laid. Structures have been created, projects set up and a joint approach agreed between the Federation and the Länder. However, specific, practical, tangible results for citizens, businesses and public administration have largely yet to be achieved. Even the “OZG booster” prioritisation process recently launched by the Federal Government and the Länder to speed up completion of selected OZG services has not translated into genuine progress. Figure 6 shows that only 33 of the 575 online services originally planned are already available from the majority of the Länder with just two months to go before the deadline for implementation. Twentynine of those 33 services are Federation services and therefore automatically available nationwide.

| 14 OZG AREAS | LEAD FEDERAL MINISTRY | LEAD LAND/LÄNDER | OZG-SERVICES IN PROGRESS ¹ | OF WHICH AT PLANNING STAGE | OR AT IMPLEMENTATION STAGE | OR GOING LIVE ² | OF WHICH AVAILABLE NATIONWIDE ³ |
|---|--|---|---------------------------------------|----------------------------|----------------------------|----------------------------|--|
| Work & pensions |  BMAS |  NW | 26 | 1 | 19 | 6 | 2 |
| Building & housing |  BMI |  MV | 37 | 13 | 15 | 9 | 2 |
| Education |  BMBF |  ST | 13 | 2 | 9 | 2 | 1 |
| Immigration and emigration |  AA |  BB | 11 | 0 | 7 | 4 | 0 |
| Volunteering & leisure |  BMI |  KSV  NW | 25 | 12 | 11 | 2 | 1 |
| Children & familie: |  BMFSFJ |  HB | 24 | 3 | 14 | 7 | 1 |
| Research & funding |  BMI |  BY | 18 | 8 | 7 | 3 | 2 |
| Health |  BMG |  NI | 23 | 1 | 6 | 16 | 2 |
| Mobility & travel |  BMVI |  HE  BW | 48 | 2 | 35 | 11 | 2 |
| General services |  BMI |  BE | 18 | 7 | 10 | 1 | 5 |
| Law & order |  BMJV |  SN | 5 | 0 | 4 | 1 | 1 |
| Taxes & customs |  BMF |  HE | 22 | 0 | 9 | 13 | 7 |
| Environment |  BMU |  SH  RP | 40 | 6 | 29 | 5 | 1 |
| Corporate governance & business development |  BMWi |  HH | 30 | 3 | 12 | 26 | 6 |
| Correct as at: 05 October 2022 | | | 351 (out of c. 575) | 58 (out of 381) | 187 (out of 381) | 106 (out of 381) | 33 (out of 106) |

1 - Figures do not include services implemented outside the scope of the OZG digital programme or services that have been postponed because they are low priority.

2 - Status achieved if a) if at least one administrative service has gone live b) at least digitalisation stage 2 c) in at least one municipality.

3 - "Nationwide" availability for a Federation service means an online service is available through the federal portal, and for a Land or municipality service that an online service is available in at least 9 out of 16 Länder

Figure 6: Status of OZG implementation

Tangible results may be extremely limited, but we now have extensive experience and understanding as to why progress is so slow.

In the NKR's view, there are a number of factors at play. Here are the key factors in brief:

- A combination of complex coordination and consultation and wide-ranging challenges creates a level of complexity that overwhelms those involved, impedes decision-making and hampers progress. This is exactly the scenario with the digitalisation of public administration in Germany. An attempt at efficient and effective management through complex structures covering all areas and levels of government across this federal country has not been crowned with the expected success, and is indeed now considered by many to have failed.
- The rule is for IT solutions to be produced centrally by dedicated teams and then rolled out for the whole country (single-source approach). In practice, this means that the Länder and municipalities have to wait for the lead agencies to finish their job – or that they give up waiting and develop their own solutions. There is a lack of overarching parameters, such as standards and interfaces, which would allow the various stakeholders to make their own decisions at a very local level whilst ensuring that all elements in the system are ultimately interoperable.
- Where good single-source solutions are developed, there are currently considerable obstacles to sharing or implementing them. Although the NKR proposal for a marketplace for IT solutions has now been adopted, it is still at a very early stage of development and is yet to emerge as a central component of a general distribution strategy. The same applies to the

provision of standardised operating platforms offering industry-level performance such as those possible with cloud technology.

- Data should only have to be provided to the public administration once and thereafter be retrievable for subsequent use: this is essential to simple and seamless online services. A number of key acts covering both citizens and businesses have been passed in recent years to allow data-sharing of this kind and ensure it complies with privacy and other legal requirements. Implementation of the relevant legislation has now begun and is supposed to be completed by the end of the decade, but certain aspects are already behind schedule. Germany still does not have an effective, modern public-sector data management system.

As the deadline for its implementation is the end of this year, there is a growing expectation that the Online Access Act will be amended. The Federal Ministry of the Interior and Community has in fact announced an “OZG 2.0”. It remains to be seen to what extent an amended Online Access Act will draw on the lessons of the past five years, and whether the opportunity for genuine changes to the underlying strategy will be taken.

The NKR has closely followed OZG implementation over recent years and made regular suggestions for amendments to the legislation. The Federal Government must use any OZG 2.0 to improve the architecture and organisational basis for the digital transformation of Germany's public administration. Fundamentally, the previous “single-source” approach should no longer be focused on the development of software but rather on the design, management and operation of those elements of a federal IT network that are and need to be genuinely universal. What is needed is standards and interfaces plus a limited ran-

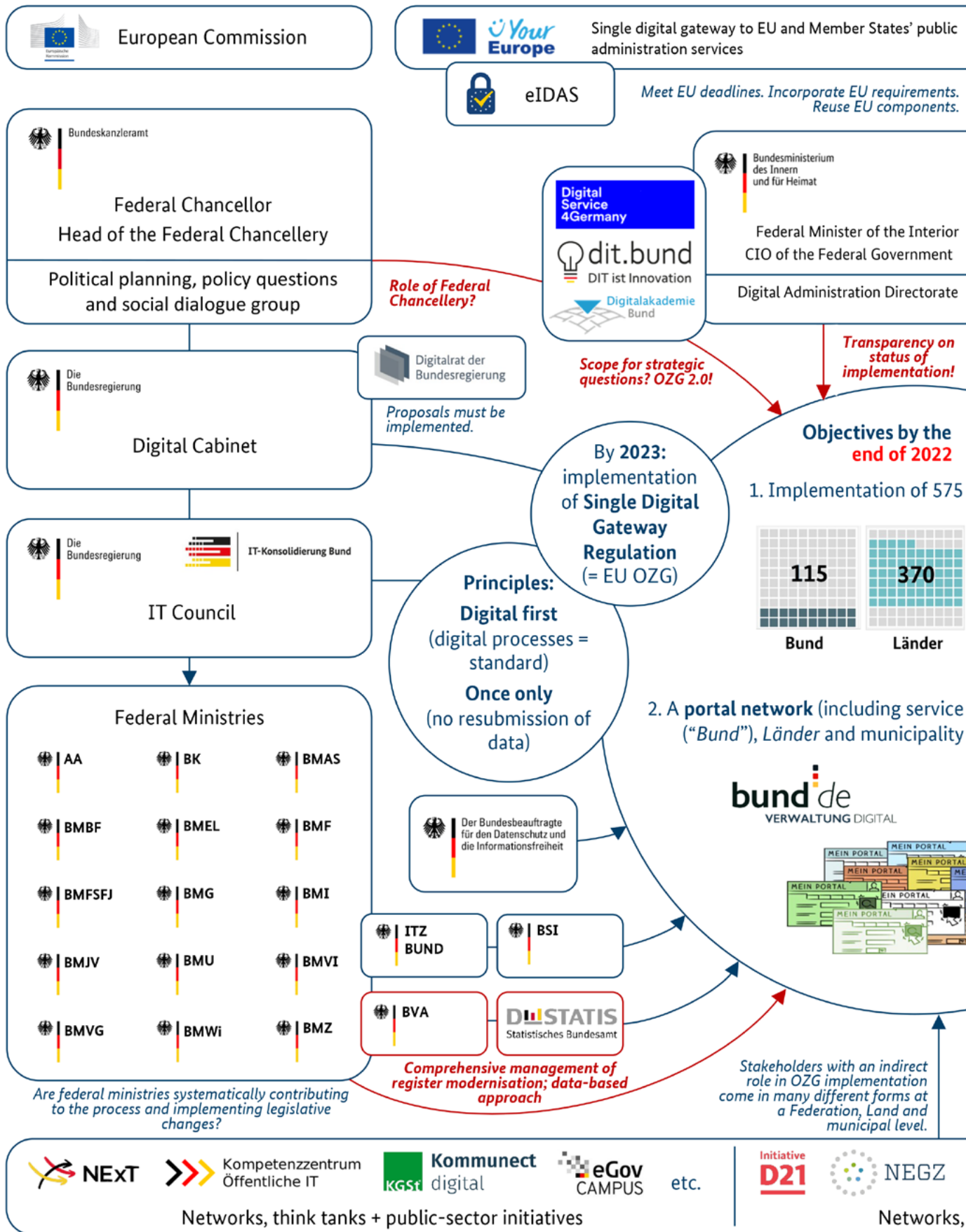


Abb. 7: Viele Digitalisierungsverantwortliche und komplexe Umsetzungsstrukturen in Deutschland

EU Member States



Is it working?



Minister-Presidents

Heads of the state and senate chancelleries

How much input is there from the heads of government themselves? How much scope is there to explore strategic questions?

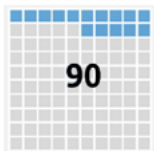


Land and Federation data protection officers

e.g. IMK WMK

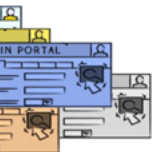
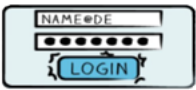
Standing conferences of ministers

OZG services



Kommunen

accounts) linking Federation ("Kommunen") portals



FITKO

Improve operational + strategic capabilities



FIT-Store



MARKTPLATZ für EIA-Leistungen



GOV DIGITAL

Public-sector IT service providers

VITAKO



IT-Planungsrat

Federation CIO + Länder CIOs (National associations of local authorities)



KoSIT

Increase standardisation

Municipal body

Länder and municipalities...



294 districts, c. 11,000 municipalities



... with wide range of (digital transformation) ministries, and similarly complex coordination and control structures

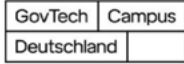
Chambers of industry and commerce



ZDK ZENTRALVERBAND DES DEUTSCHEN HANDWERKS

Chambers implement their own OZG services.

Make better use of IT expertise from the private sector and society as a whole.



etc.



etc.

Private IT service providers

think tanks + initiatives with private sector



ge of basic infrastructure components and basic services that together form the core of a federal IT platform and can be operated (or at least primarily operated) centrally. A stable federal IT platform will provide the basis for the development of varied but interoperable procedures and specialised services at a local level to meet the wide-ranging needs of the very heterogeneous public authorities in Germany.

Recommendations for OZG 2.0

The NKR has five key recommendations on how this abstract concept could take shape in practice, the details of which can be found in the “Digital Public Administration Monitor #6”⁸ report published in September 2021. The recommendations are supported by other stakeholders in the OZG process and should urgently be explored in an open-ended discussion around OZG 2.0.

1. *Universal standards and components instead of single-source software:* In theory, single-source software sounds like a logical approach. In practice, however, expensive standard solutions that hinder competition and innovation while barely meeting the varying needs of different municipalities are of only limited use. All providers should be allowed to develop software. A variety of products – to meet all relevant needs – would not be a problem were there open and clearly defined interfaces and standards, and development complied with the architecture requirements for a federal IT platform. The platform itself would include basic infrastructure such as cloud environments, electronic ID, user accounts for businesses and citizens, a privacy cockpit, a mailbox and

payment function, registers/records, etc. Any OZG 2.0 must be designed both to limit the range of core components (universal basic components) and to ensure greater competition on software solutions within an overarching architecture and in compliance with a clearly defined standardisation framework (universal standards).

2. *Modernisation of registers for a successful Online Access Act:* The genuine, user-friendly digital transformation of public administration will only be possible if data available to one administrative body can be used by others – and that in compliance with privacy and data security requirements. Paper documentation needs to be replaced by digital queries, and manual signatures by electronic identification solutions such as the electronic identity card. All this will require effective overall coordination and comprehensive implementation of all aspects of register modernisation, backed by the necessary human resources. The same applies to the introduction of user-friendly eID solutions that are suitable for both public-sector and private-sector applications. Delays that have already occurred, for example with the business base data register, must be addressed and greater political priority must be given to resolving them. Gaps in the records system such as the outstanding register of buildings and housing need to be closed, and the task of consolidating databases and data-sharing structures – including in relation to statistics and censuses – must finally be tackled. The modernisation of Germany’s registers and records is absolutely fundamental to the digital transformation of

⁸ **Monitor Digitale Verwaltung #6** – <https://www.normenkontrollrat.bund.de/resource/blob/72494/1958282/70fdb29d2a322a1e6731e-9d92a132162/210908-monitor-6-data.pdf>

public administration, yet despite the commitment of project stakeholders, it is still far from receiving the necessary attention.

3. ***From an OZG marketplace to a federal “IT warehouse”:*** Accelerating the digital transformation of public administration means radically reducing the transaction costs involved in identifying, procuring, operating and developing suitable IT solutions. The “FIT store” and OZG marketplace were intended to overcome this challenge, but do not go far enough. What we need is a federal “IT warehouse” from which all public authorities can easily procure inexpensive IT solutions of all kinds that meet public procurement and privacy requirements, are compatible with federal IT network standards and are simple to operate. Any OZG 2.0 should define how this IT warehouse is to operate, as well as how it is to be financed and managed.
4. ***Better decision-making and control structures:*** More rapid action on digitalisation requires quicker and better-defined decision-making and control structures. It is the NKR’s view that the IT Planning Council (IT-Planungsrat) should meet more often and that its decisions should be binding. The Federation should also make use of its right to set uniform standards. Efficiency, capability and performance must be improved, and the best way to achieve this would be to transform FITKO (the body for federal IT cooperation) into a world-class federal digital transformation agency. Any OZG 2.0 must define the necessary decision-making and management structures and clearly specify who is responsible for standardisation, architecture management, the IT warehouse, basic infrastructure, etc.

5. ***Legal entitlements and transparent evaluation:*** The deadline for implementation of the Online Access Act has in effect passed. Although the Act introduced many good ideas and laid some important groundwork, it has not achieved its stated objective. Concentrating on online access in isolation and the quantitative target of digitalising 575 services is not enough: what is needed is a greater focus on quality, and that means on processes that are fully digital from start to finish. Broader objectives, more binding requirements and more effective implementation are therefore required for any OZG 2.0. A new act needs to set out more binding obligations for municipalities; it should also involve them much more closely in the design and practical coordination of OZG implementation. At the same time, users should have a legal entitlement to simple, digital processes. New implementation deadlines and a binding digital service standard are therefore required. We need clear and transparent documentation of the status of implementation. Alongside monitoring of formal implementation, there should be a record of the quality of online solutions and user numbers: user satisfaction is a key measure of the success of digital transformation.

Many of these recommendations have been made before. Indeed, many feature in the Digital Service Standard (Digitaler Servicestandard), a collection of non-binding guidelines for the development and operation of user-friendly IT solutions. [BMI June 2020] An OZG 2.0 should raise the Digital Service Standard to the level of an ordinance or at least an administrative regulation and make its application mandatory. The digital-readiness check must in future examine whether the legislative drafting process has taken account of OZG and Service Standard requirements.

The measures set out here draw on experience from leading digital nations and wide-ranging recommendations from the research community, civil society and stakeholders in practice. In some cases, they correspond closely to what the Länder themselves have said they want to see from an OZG 2.0. It is not currently clear whether or to what extent the Federal Ministry of the Interior and Community and the Federal Government are actually examining these proposals, discussing them with practitioners and other relevant experts, and drawing on findings from those discussions when working on the new Online Access Act. This is a source of concern to the NKR. It is to be feared that changes to the OZG will be minor and the opportunity to learn from the lessons of recent years might be missed.

Dresden Demands and federalism dialogue

Accelerating and simplifying the digital transformation of public administration will remain a huge challenge for Germany even if the recommendations outlined are all fully implemented. Where might further potential lie? This question inevitably brings us to the division of roles in Germany's federal system and the principle that each federal minister has independent responsibility for their own ministry (Ressortprinzip) – a principle that can foster a bunker mentality. In a public administration in which decision-making powers on implementation and IT issues lie with multiple different parties and the definition of responsibilities is based on the needs of a previous century, the measures described above could certainly help. However, further potential for simplification can only be harnessed if there is a rethink of how tasks and responsibilities are shared.

All these issues have been raised by a group of municipalities in what have become known as the “Dresden Demands” (“Dresdner Forderungen“).

The municipalities in question argue for greater centralisation of administrative services that they have little leeway to adapt, i.e. first and foremost services that the state requires them to provide, and for responsibility for IT processes to be simplified. These proposals should be adopted. One of the goals the Federal Government set itself in its coalition agreement was to make the federal system more effective. The coalition agreement states that the Government is to engage in a dialogue with municipalities and Länder on a more transparent and efficient division of responsibilities, and that digital transformation should be part of that dialogue.

The Dresden Demands and this proposal for dialogue arise from the same fundamental realisation, namely that a true digital transformation must involve the modernisation of the state and public administration.

3.2. Modernisation of the state and public administration

Modernisation means addressing not just structural issues of the division of roles and responsibilities but also many other questions relating to the resilience of the public sector. Leaving aside the numerous structural problems highlighted by recent crises, the public administration is finding it increasingly difficult to meet the expectations of citizens, businesses and political authorities in its everyday operations. Ever more complex legislation is affecting how well and how effectively state functions are exercised – as are demographic change and a growing skills shortage.

That is why modernisation is another key issue for the NKR alongside the digital transformation of public administration, and offers great potential for bureaucracy reduction. The NKR

presented an extensive position paper on this subject in the summer of 2021 which set out ten practical recommendations (“Effective Administration – Future-Proof State. Recommendations for a sustainable modernisation – during crises but also in everyday life” (“Initiative Leistungsfähige Verwaltung – Zukunftsfester Staat. Empfehlungen für eine nachhaltige Modernisierung – in der Krise, wie im Alltag”)).

The key message was that politicians and the public administration need to pay more atten-

tion to the structural aspects of good governance, even if those aspects are seen as a major undertaking with little prospect of tangible success in the short term. Reform must be systemic if it is to reach right down to the structural and cultural roots of public administration. Systemic reform in turn requires universal mechanisms and incentives that are eventually so embedded in everyday political and administrative routine that they develop their own momentum and enable a sustainable change in culture to begin.

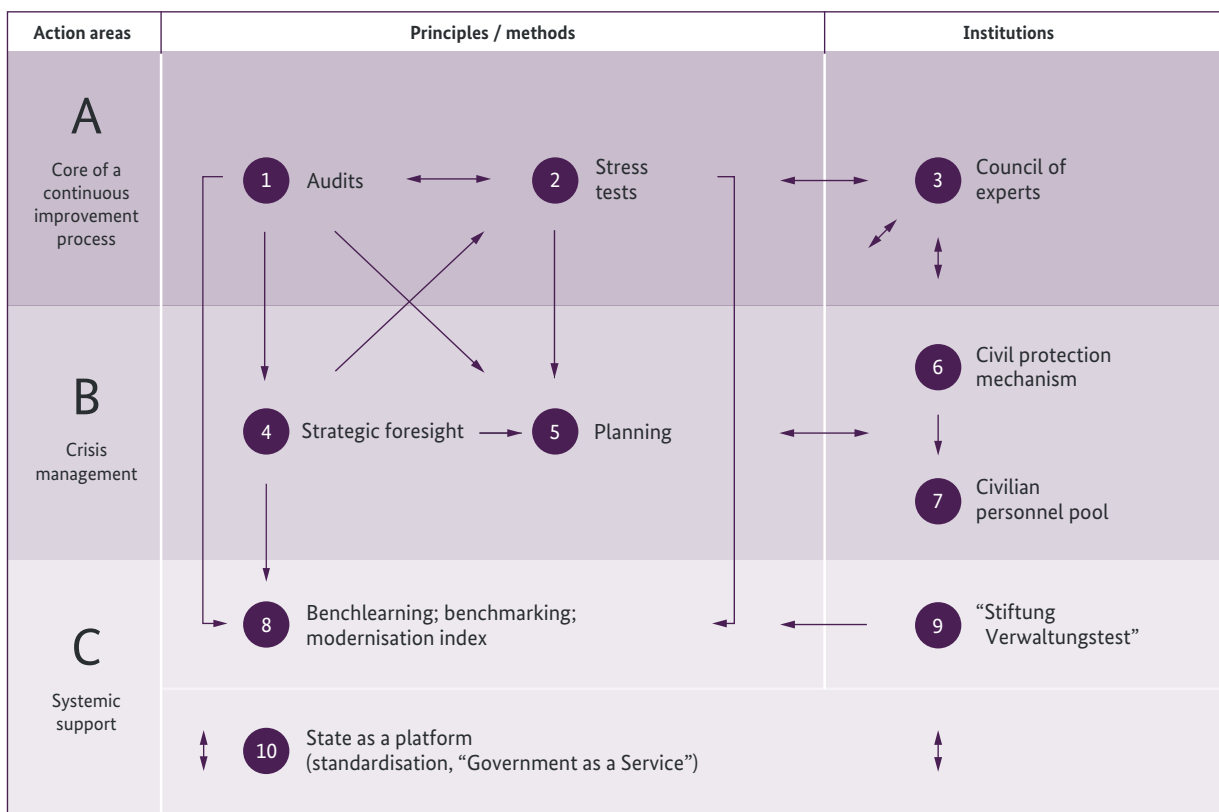


Figure 8: Ten recommendations for sustainable modernisation of public administration

During the reporting period, the NKR received much positive feedback on its recommendations for modernisation of public administration. These recommendations were discussed in numerous contexts, including at the Federal President's 12th "Forum Bellevue on the Future of Democracy" in the autumn of 2021, which looked at what lessons the state and society can and must learn from the pandemic. The NKR is of the firm view that its recommendations remain relevant, and indeed are becoming ever more so at a time of growing dissatisfaction with the state and with public administration (cf. Chapter 1.4).

It is worth highlighting two of the ten recommendations here in particular, as they relate closely to the digital transformation of public administration, better regulation and bureaucracy reduction:

- **The state as a platform:** Described in the "Stein-Hardenberg 2.0" study back in 2014, this is a tried and tested principle in the IT world. Applying this approach to how best to share tasks across a complex system of public administration would mean considering how the transaction, development and operating costs of service provision could be drastically reduced and the quality of services improved. Certain processes and universal functions could be centralised; each public authority would in this case no longer maintain all the resources otherwise required to carry out all steps in a given process itself. Overall efficiency could be improved if standardised services (for example means testing) were dealt with by a specialised inter-regional or indeed nationwide service centre instead of by each individual authority. The various local and ot-

her public authorities would then no longer need their own structures, procedures and resources for those services. All these aspects are important to a rethink of the Online Access Act, just as they are in assessing the feasibility and digital-readiness of legislation and in the search for the least bureaucratic implementation options.⁹

- **Audits, stress tests, benchmarking and "Stiftung Verwaltungstest":** You can only usefully manage what you can measure. A range of tools is available for assessing the performance and resilience of a local or other public authority or indeed an entire Land, identifying areas for improvement and mapping changes over time. Depending on the scope, audits and stress tests can be purely internal measures; they can also be used in combination with public benchmarking to encourage a level of competition between authorities and to provide valuable data. This is the background to the proposed "Stiftung Verwaltungstest", an independent body that would test and rate administrative services. A degree of incentivisation could help to raise awareness of the issues both within the world of politics and in society as a whole, and lead to a greater willingness to invest time, political capital and resources in modernising the state. Changes to the OZG should include transforming the OZG dashboard into a comparison tool that provides a reliable and up-to-date overview of the status of digital transformation across Germany's public administration.

The NKR is aware that the modernisation of public administration involves many different, specific issues, and that there are and must be very different priorities at the various different levels of that administration. Staff recruitment, de-

⁹ Projektergebnisse „Stein-Hardenberg 2.0“ – <http://www.ifg.cc/projekte/stein-hardenberg-2-0.html>

velopment and remuneration in particular present major challenges at a time of demographic change. Another considerable challenge is the broad area of planning and approval processes. The bureaucratic burden they present depends largely on local management practices, but not exclusively: requirements under substantive fe-

deral and European law can also have a significant impact. A strategy for transformation must start by looking at these legal and organisational interactions and conflicts in a multi-level system of government. This is a key priority for the NKR and one which it intends to pursue more closely in future.

4

*Compliance costs,
benefit analysis and
evaluation of
legislative acts –
developments in the
reporting period*

The NKR's mandate includes verifying whether and to what extent the Federal Ministries have described the cost implications of the laws, regulations and administrative provisions drafted by them. The most important category of costs arising from new legislation is compliance costs. Compliance costs refer to the measurable time expenditure and monetary costs either incurred or saved by citizens, business and public administration as a direct result of a new regulation. They can be either one-off or recurring costs and savings. The methodology for determining and presenting compliance costs is specified in a set of guidelines that are regularly updated and uniformly applied throughout the government. On the basis of these guidelines and taking into account any feedback from the addressees of the legislation, the NKR reviews the plausibility of information provided by the ministries and advises them on the methodology's application. The NKR documents the results of this review in a statement that is submitted to the cabinet before new regulatory instruments are adopted. NKR statements on the Federal Government's regulatory initiatives become part of the Bundestag printed papers, thereby entering the public domain.

Besides compliance costs, the NKR also assesses other aspects of better regulation, such as benefit analyses, alternative policy options, and issues such as evaluation or legislative and administrative simplification.

With regard to the transposition of EU directives, the NKR checks whether the provisions

were directly "translated" into German law, or formulated in stricter terms than the original directive. EU legislation can also apply directly in the form of EU regulations. In order to also keep track of the cost implications of EU directives, the NKR follows a simplified procedure to review the extent to which the Federal Government conducted a prior assessment of the regulation's implications for Germany. This procedure, known as the EU ex-ante procedure, complements the national procedure for cost impact assessments.

Since the introduction of full assessment of compliance costs in July 2011, the NKR has produced annual reports on the development of compliance costs to citizens, business and public administration in the period from July of the previous year to June of the current one. In order to keep the methodology as simple as possible, the compliance costs calculated are not adjusted for inflation. Any analysis of the following data should take this into account.

4.1. Development of compliance and bureaucracy costs

From July 2021 to June 2022, the NKR scrutinised 348 regulatory initiatives by the Federal Government. Of these, over a third (127) had implications in terms of compliance costs. In comparison to the previous year, the number of regulatory initiatives scrutinised fell. In 2020/21, almost 650 drafts were submitted to the NKR for scrutiny. This difference is explained by the fact that

the previous reporting period encompassed the final phase of a legislative term, a time traditionally characterised by an especially high number of regulatory initiatives. The current reporting period, on the other hand, includes a parliamentary election and the formation of the new Bundestag and Federal Government – a period of reduced legislative activity. Nevertheless, the number of regulatory initiatives scrutinised was higher than in the wake of the previous parliamentary election: in the 2017/18 reporting period, the NKR examined only 240 regulatory initiatives.

Recurring compliance costs were significantly higher in the 2021/22 reporting period than in previous years. For all three addressee groups

(citizens, business and public administration), compliance costs grew by around 6.7 billion euros (over 60 percent) to around 17.4 billion euros in total. However, almost 90 percent of this rise can be attributed to a single initiative: the statutory minimum wage increase. This increase resulted in additional wage costs of 5.6 billion euros, which according to the methodology for determining compliance costs should be treated as costs to business. Unlike the NKR, the Federal Government did not declare these costs as compliance costs (*cf. Chapter 4.1.2*).

Other regulatory initiatives resulted in total recurring compliance costs of around one billion euros. These costs were incurred primarily by business (720 million euros).

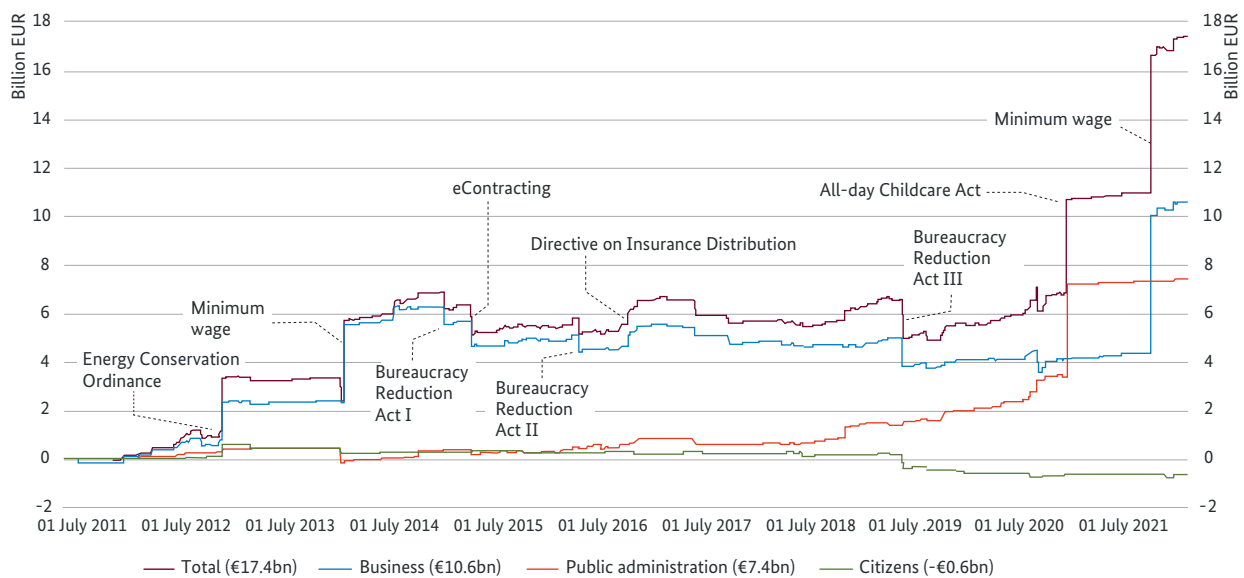


Figure 9: Compliance costs monitor (current as of 30 June 2022)

4.1.1. Compliance costs to citizens

The current reporting period marks the first net increase in compliance costs to citizens since 2017/18 (over 50 million euros). Nevertheless, citizens remain the only addressee group with a positive balance since the introduction of compliance cost estimates. Since July 2011, recurring compliance costs to citizens have fallen by around 590 million euros overall.

The additional burden in the current reporting period can be attributed almost entirely to the higher building costs for single-family homes and apartment buildings arising from stricter requirements for new buildings under the Effizienzhaus-55 (efficiency house 55) standard (around 177 million euros).

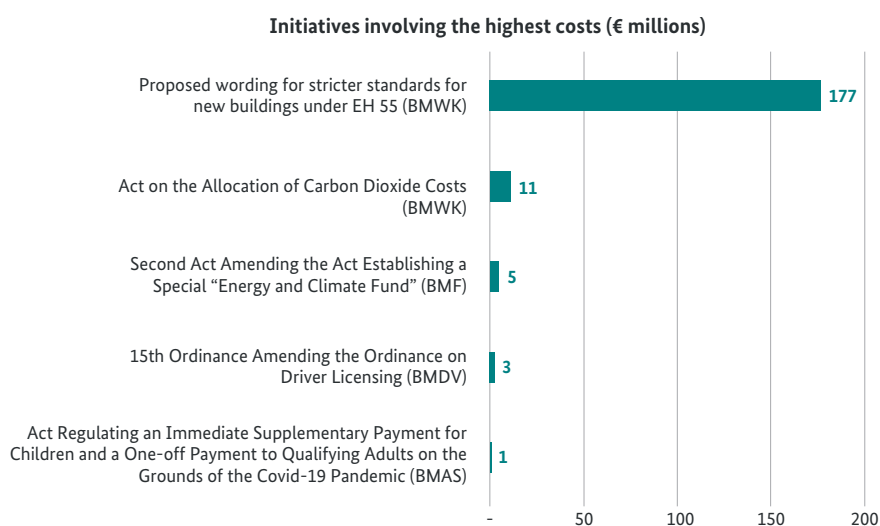


Figure 10: Regulatory initiatives imposing the greatest annual burdens on citizens in the 2021/22 reporting period

Stricter standards for new buildings under EH 55 (Federal Ministry for Economic Affairs and Climate Action) (NKR-No. 6279)

With the introduction of stricter requirements for new buildings under the Effizienzhaus-55 standard, the permissible limit for primary energy requirements of new buildings was lowered from 75 to 55 percent of the primary energy requirements of a theoretical reference building. In addition, stricter requirements for insulation quality were introduced. As a result, construction costs for new buildings rose by around 3.8 percent for residential buildings and 4.3 percent for non-residential buildings. This equates to recurring compliance costs of around 180 million euros for citizens, around 250 million euros for business, and around 40 million euros for public administration.

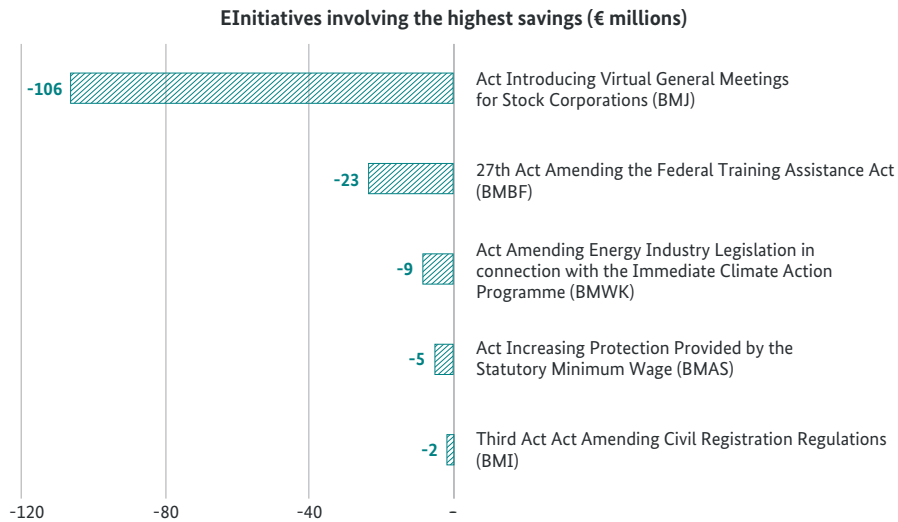


Figure 11: Regulatory initiatives involving the highest annual savings for citizens in the 2021/22 reporting period

Introduction of virtual shareholder meetings for stock corporations (NKR-No. 6163)

The Act Introducing Virtual Shareholder Meetings for Stock Corporations (Gesetz zur Einführung virtueller Hauptversammlungen von Aktiengesellschaften) and supplementary provisions was the initiative resulting in the highest savings for citizens in the reporting period. The resulting annual savings amount to approximately 2 million hours (around 53 million euros) and an additional 53 million euros in material costs. These savings stem from new rules allowing stock corporations to hold shareholder meetings in exclusively digital form in future. A comparable regulation had already been introduced on a temporary basis during the Covid-19 pandemic. The new Act provides a lasting legal basis for virtual shareholder meetings.

The main source of savings (103 million euros) in the reporting period was the introduction of virtual shareholder meetings for stock corporations (Aktiengesellschaften).

One-off compliance costs to citizens in the reporting period totalled some 24 million euros, substantially less than in recent years. Additional one-off costs were incurred primarily as a result of familiarisation with the regulatory changes and amendment of tenancy agreements under the Act on Allocation of Carbon Dioxide Costs (Gesetz zur

Aufteilung der Kohlendioxidkosten) – around 20 million euros.

4.1.2. Compliance costs to business

Recurring compliance costs to business rose by 6.4 billion euros in the reporting period, more than doubling from around 4.2 billion euros to around 10.6 billion euros. This burden is explained primarily by the increase in the statutory minimum wage, which brought about total compliance costs of around 5.7 billion euros, of which 5.6 billion euros were additional wage costs.

Increase in the statutory minimum wage (NKR-No. 6151)

The Act Increasing Protection Provided by the Statutory Minimum Wage and Changes in the Field of Marginal Employment (Gesetz zur Erhöhung des Schutzes durch den gesetzlichen Mindestlohn und zu Änderungen im Bereich der geringfügigen Beschäftigung) implements the minimum wage of 12 euros per hour envisioned in the coalition agreement. This gives rise to annual compliance costs in the form of additional wage costs of around 5.6 billion euros. In the draft bill, the Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales) described these additional wage costs as “other costs”. This is a departure from the established methodology for determining and presenting compliance costs. Under section 2, paragraph 1 of the Act Establishing a National Regulatory Control Council, compliance costs encompass the total measurable time expended and costs incurred by citizens, business and public administration to comply with a federal provision. As stipulated in a written agreement between the Federal Ministry of Labour and Social Affairs and the NKR, minimum wage increases should only be recorded as “other costs” if they are the result of a resolution by the independent Minimum Wage Commission (cf. second and third Ordinance on the Adjustment of the Amount of the Statutory Minimum Wage, Verordnung zur Anpassung der Höhe des Mindestlohns). A minimum wage threshold enacted by the Federal Government through a legislative amendment and not by the Minimum Wage Commission, should therefore clearly fall under recurring compliance costs.

In line with the mutually agreed methodology and counter to the unilateral decision by the Federal Government, the NKR has reported the minimum wage increase under compliance costs. The NKR understands that, as in this case, uncertainties must inevitably arise as to which categories of costs should be evaluated as compliance costs, and consequently as publicly imposed bureaucratic burdens. Nevertheless, when it comes to fundamental issues of definition and revisions, it is crucial that the Federal Government and the NKR adopt a common approach, as provided for by the Act Establishing a National Regulatory Control Council.

Other regulatory initiatives led to recurring costs to business of around 720 million euros. This is the sharpest rise since the 2013/14 reporting period – even without the costs arising from the minimum wage increase – and marks the end of a period of cost containment. In the last four years, business had either enjoyed net savings, or was burdened to a substantially lesser extent, i.e. with annual costs below 100 million euros.

The rise in the current reporting period can be attributed primarily to two measures by the new Federal Government concerning energy security and efficiency, and to the implications of Russia’s attack on Ukraine: The average costs arising from the prescribed minimum gas storage levels are estimated at around 340 million euros annually, while the introduction of the stricter EH55 standard for new buildings caused additional annual compliance costs of around 250 million euros.

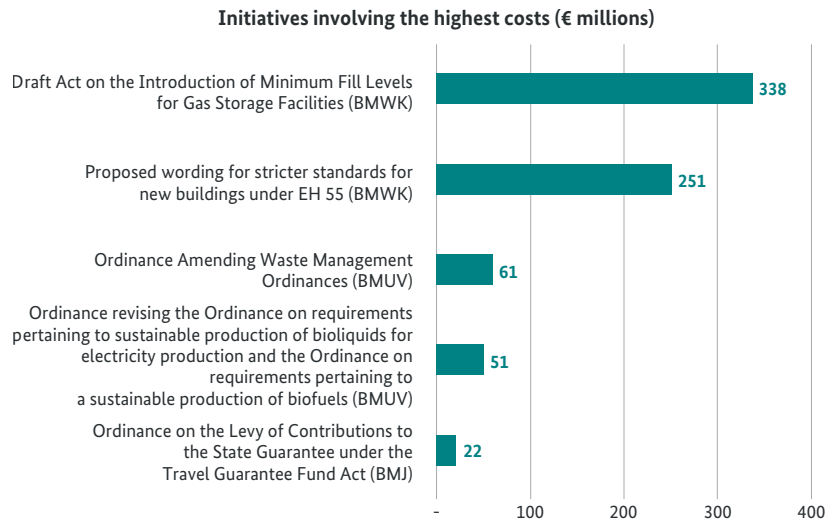


Figure 12: Regulatory initiatives involving the highest annual costs to business (not considering the minimum wage increase) in the 2021/22 reporting period

On the other hand, the previous Federal Government did not present a new Bureaucracy Reduction Act by the end of its legislative period. In the past, Bureaucracy Reduction Acts have helped to contain recurring compliance costs to business. In the current reporting period, however, regulatory initiatives with an alleviating

effect merely reduced total compliance costs to business by around 120 million euros. This is a relatively low level of savings compared to previous years, in which alleviating measures produced an average reduction in recurring compliance costs of approximately 750 million euros annually.

Bureaucracy Reduction Acts

The Federal Government has adopted three Bureaucracy Reduction Acts to date:

- **BEG I (2015):** *The most significant measures introduced by the first Bureaucracy Reduction Act were reducing the notification obligations of employers required to withhold church tax (estimated savings of around 230 million euros) and raising thresholds for bookkeeping and record-keeping obligations under tax and commercial law (savings of around 500 million euros).*
- **BEG II (2016):** *The measures introduced by the second Bureaucracy Reduction Act included abolishing the retention period of either six or ten years for certain delivery notes required by tax law (savings of approximately 230 million euros) and raising the threshold for simplified invoices for small amounts (savings of approximately 45 million euros).*
- **BEG III (2019):** *The most important measures under the latest Bureaucracy Reduction Act included the introduction of the electronic certificate of incapacity for work (savings of around 550 million euros) and streamlining of the provisions of the Fiscal Code on electronic archiving (savings of around 530 million euros).*

The most notable sources of savings in the reporting period were the introduction of virtual shareholder meetings for stock corporations (around 50 million euros) and the transition to

electronic commissioning and notification of grid connections provided for in amendments to energy industry legislation (around 35 million euros).

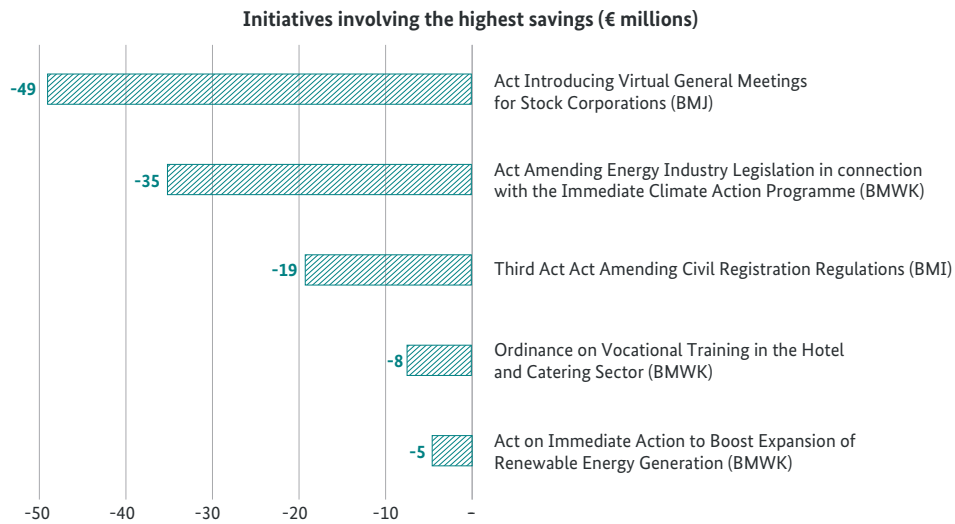


Figure 13: Regulatory initiatives involving the highest annual savings for citizens in the 2021/22 reporting period

Tangible relief for business is currently more important than ever. Businesses face new challenges as a result of the ongoing Covid-19 crisis and the repercussions of Russia's war of aggression against Ukraine. Alongside tax exemptions

and financial support, savings in connection with legal requirements constitute an important means by which to mitigate the effects of the current crises. Savings of this kind were largely absent in the reporting period.

***Bureaucracy costs** are a subset of annual compliance costs. They arise from obligations on companies to secure, retain or transmit data and other information for authorities or third parties. Examples include reporting requirements for social security and official statistics, or the obligation to provide clients with general terms and conditions.*

Bureaucracy costs rose for the first time since 2018/19. The annual increase of around 125 million euros can for the most part be attributed to

the rise in the number of employees covered by the documentation requirements under minimum wage legislation (around 100 million euros).

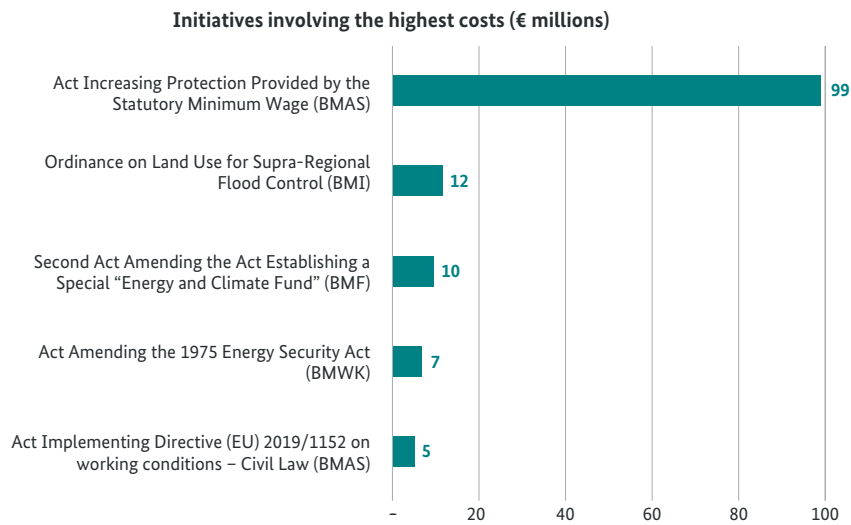


Figure 14: Regulatory initiatives involving the highest annual bureaucracy costs to business in the 2021/22 reporting period

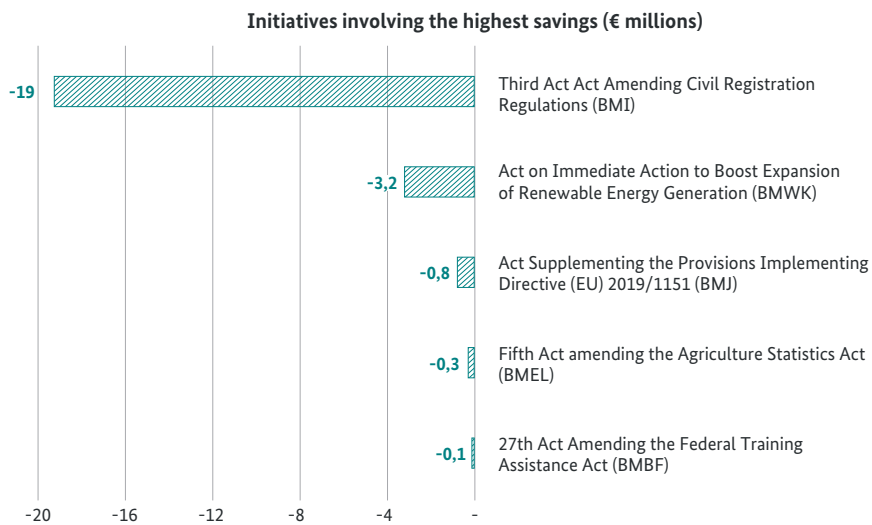


Figure 15: Regulatory initiatives involving the highest annual savings in bureaucracy costs for business in the 2021/22 reporting period

The greatest reduction in bureaucracy costs was brought about by electronic reporting of births and deaths pursuant to amended civil registration regulations (around 20 million euros).

In spite of the additional costs, the Federal Government's Bureaucracy Cost Index remains below the reference value adopted in 2012 (=100), at 97.3 percentage points.

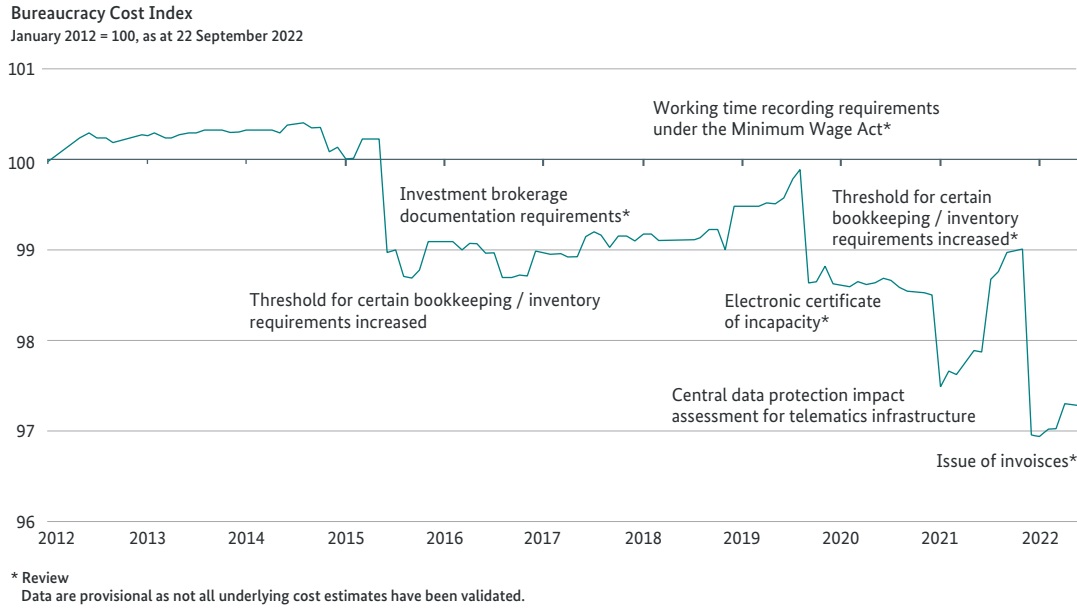


Figure 16: Development of the Bureaucracy Costs Index since the baseline measurement

Development of one-off compliance costs to business

One-off compliance costs to business totalled around 2.6 billion euros in the reporting period – substantially less than in the previous year (5.4 billion euros). This reduction can be attributed to the reduction in temporary initiatives in connection with the Covid-19 pandemic.

In the 2020/21 reporting period, the SARS-CoV-2 Occupational Safety Ordinance (SARS-CoV-2 Arbeitsschutzverordnung) caused one-off compliance costs to business of around 3.8 billion euros. In the current reporting period, an amendment to this ordinance was once again the largest source of one-off costs, at around 1.1 billion euros.

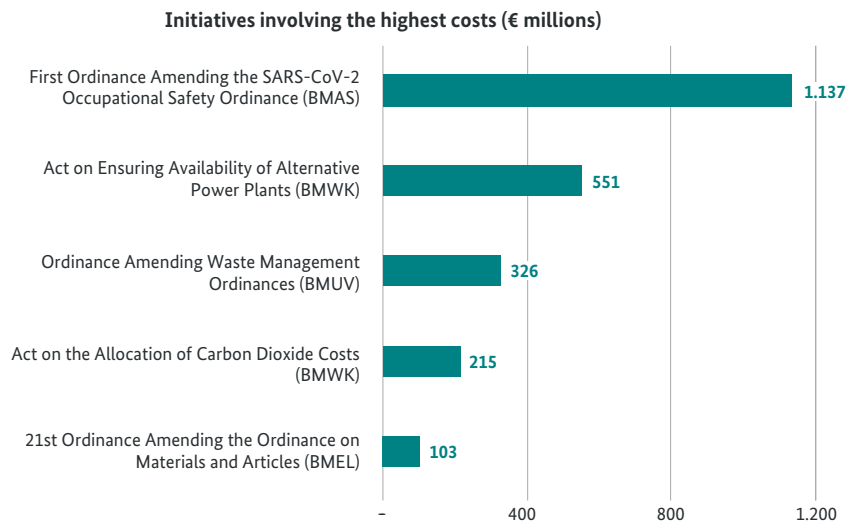


Figure 17: Regulatory initiatives involving the highest one-off costs to citizens in the 2021/22 reporting period

Amendment to the SARS-CoV-2 Occupational Safety Ordinance (NKR-No. 6020)

The first Ordinance amending the SARS-CoV-2 Occupational Safety Ordinance left several regulations from the SARS-CoV-2 Occupational Safety Ordinance in place, such as the requirement on employers to offer employees two Covid-19 tests per week. A new addition is the requirement for employers to support employees in availing themselves of vaccination services, in particular by providing them with relevant information, deploying inhouse physicians to administer vaccines at the workplace, and excusing employees from work for the purpose of vaccinations. For the regulatory initiative's initial three-month validity period, the Federal Ministry of Labour and Social Affairs estimated initial compliance costs to business of around 1.1 billion euros.

In order to gain a more detailed picture of one-off compliance costs and in response to their sharp rise recorded in recent years, in late 2019 the Federal Government adopted a “Strategy for enhanced transparency of adaptation costs to business and for effective and proportionate containment of such costs” (“Konzept zur Erhöhung der Transparenz über den Umstellungsaufwand für die Wirtschaft und zu dessen wirk-

samer und verhältnismäßiger Begrenzung”). The measures set out in the strategy do not yet seem to be having the desired effect. A tangible and deliberate containment of one-off compliance costs is not evident so far. Although crisis-related regulations are, as in the previous year, at the root of the majority of one-off compliance costs, other initiatives are responsible for costs of around 870 million euros.

Strategy for enhanced transparency of adaptation costs

In November 2019, the State Secretaries' Committee on Bureaucracy Reduction and Better Regulation adopted a “Strategy for enhanced transparency of adaptation costs to business and for effective and proportionate containment of such costs”. The strategy outlines possible approaches to containing one-off adaptation costs (e.g. setting longer implementation periods to allow better coordination of replacement purchases) and imposes corresponding documentation requirements on the ministries.

4.1.3. Compliance costs to public administration

Annual compliance costs to public administration rose by around 210 million euros to 7.4 billion euros in the reporting period. This increase is lower than in the previous three years, with the result that public administration is no longer the main driver of the overall development of compliance costs. Alleviating initiatives merely reduced recurring compliance costs by around 9 million euros. This shows that the number of

measures with an alleviating effect on public administration remains low.

In contrast to the previous year, additional recurring costs to public administration can be attributed to multiple regulatory initiatives. Additional compliance costs were incurred in particular as a result of the amended civil registration regulations and the introduction of the stricter EH55 standard for new buildings (each leading to costs of around 40 million euros).

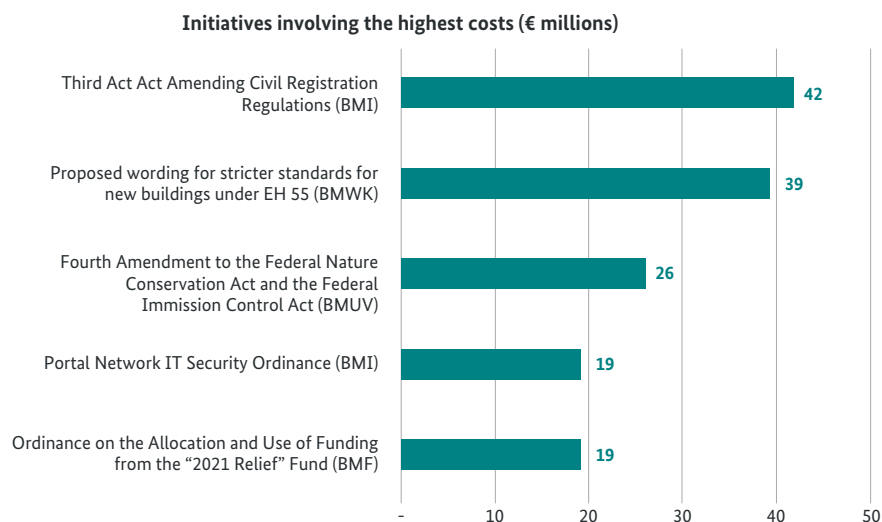


Figure 18: Regulatory initiatives involving the highest annual costs to public administration in the 2021/22 reporting period

Amendment to civil registration regulations (NKR-No. 6268)

The Act Amending Civil Registration Regulations (Gesetz zur Änderung personenstandsrechtlicher Vorschriften) creates a framework for electronic communication with the registry office, thereby implementing the corresponding provisions of the Online Access Act. The amendment dispenses with certain reporting requirements, and lifts the requirement on applicants to submit supporting documents in paper form, for instance when registering births, deaths and marriages, or when requesting a certificate of no impediment or a vital record certificate. Instead, an automated procedure for retrieval of records from other registry offices is envisaged. This initiative involves high annual compliance costs of around 43 million euros to public administration. These costs are offset in part by high annual savings of around 62,000 hours (1.5 million euros) for citizens and 19 million euros for business.

The only regulatory initiative with an alleviating effect in excess of 1 million euros in the 2021/22 reporting period was the amendment to the Federal Education and Training Assistance Act (Bundesausbildungsförderungsgesetz), resulting in savings of around 7 million euros and thereby accounting for almost 80 percent of all savings for public administration.

One-off costs to public administration were also lower than in previous years, at around 490 mil-

lion euros. As in the previous reporting period, temporary crisis measures did not play a particularly significant role, in contrast to the one-off costs incurred by business. Around 40 percent of one-off compliance costs were incurred in connection with the Ordinance on IT security (IT-Sicherheitsverordnung) and the Administrative Regulation on the identification of nitrate-contaminated and eutrophic areas, each of which resulted in costs to public administration of around 100 million euros.

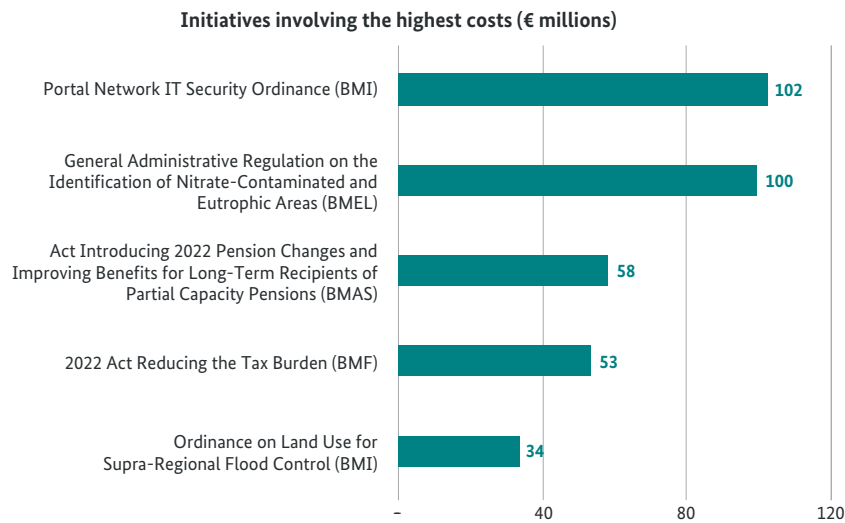


Figure 19: Regulatory initiatives involving the highest one-off costs to public administration in the 2021/22 reporting period

Ordinance on IT security (NKR-No. 5847)

With the Ordinance on IT Security, the Federation establishes security standards for the “portal network”, in implementation of the Online Access Act. Standardisation is a prerequisite for the successful digitalisation of public administration, as it reduces complexity. The goal is a uniform level of protection in order to prevent security flaws and incidents. A number of measures are envisaged to this end. These measures essentially consist in protecting the relevant IT components according to the state of the art, introducing an information security management system and IT emergency management system for IT components, and webchecks (review of the security standards of an internet presence) and penetration tests (review of the resilience to attacks of an IT system) for IT components. Implementation of these measures involves high one-off compliance costs to public administration of around 2.5 million euros at the federal level, and around 100 million euros for the Länder.

4.1.4. Development of the “one in, one out” balance

Under the “one in, one out” rule introduced in 2015, every provision that imposes a burden on business (“in”) must be offset by another provision with an alleviating effect (“out”) by the end of the legislative period. The aim of this mechanism is to ensure long-term containment of annual compliance costs.

The “one in, one out” balance for the entire 2021/22 reporting period, which spans the

end of the previous legislative period and the start of the current one, is negative. The burdens imposed (“ins”) of around 530 million euros significantly outweigh the savings (“outs”) of only around 125 million euros. The net result is an “in” of approximately 410 million euros. Of this amount, around 270 million euros can be attributed to the period following the parliamentary election. The Federal Government will have to offset this burden with alleviating measures by the end of the current legislative period.

In the previous legislative period, a net “out” of around 1.6 billion euros was achieved. The overall balance since the introduction of the “one in, one out” rule also remains positive. Relative to the 2015 baseline, the burden on business as defined under the “one in, one out” scheme has fallen by 3.1 billion euros.

Given that the “one in, one out” rule allows exceptions (e.g. transposition of EU law), it does not

provide a complete picture of burdens on and savings for business. For this reason, the NKR also publishes a second “one in, one out” curve that does not take these exceptions into account. Here too, the net result has been positive so far. Leaving aside the minimum wage increase results in a net “out” of around 1.4 billion euros. If the minimum wage increase is included in the calculation, however, the result is somewhat less favourable: a net burden of around 4.3 billion euros.

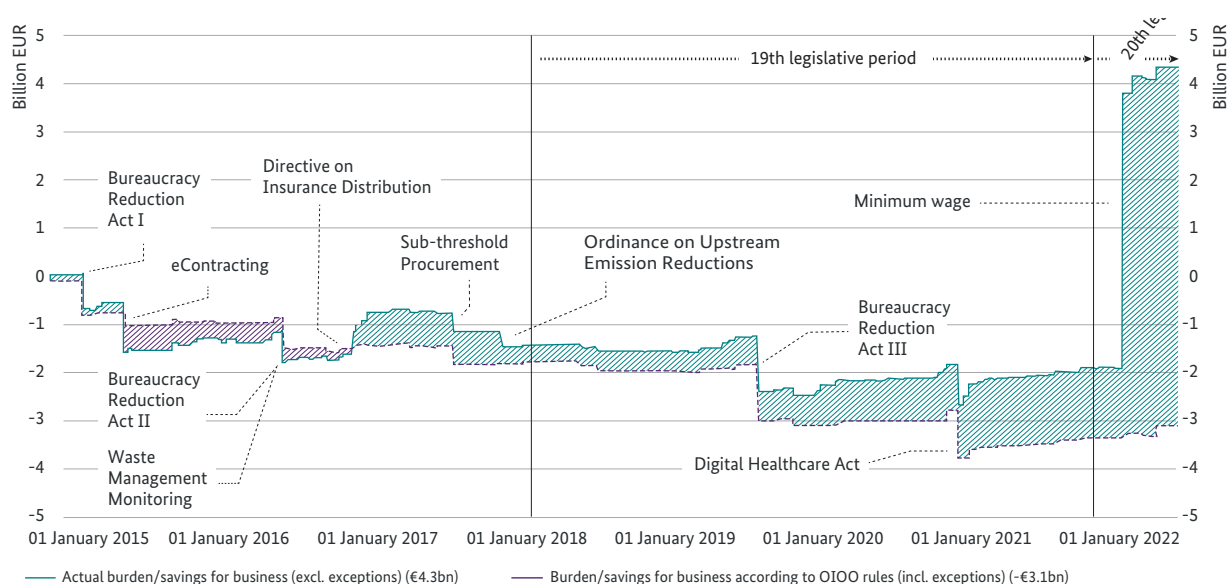


Figure 20: Development of the “one in, one out” balance since 2015

4.2. Determining compliance costs in times of crisis management

After more than ten years, the task of determining compliance costs has become an established part of the drafting process at the federal level. Even during the Covid-19 pandemic and in the context of short-term measures designed to mitigate the consequences of the war in Ukraine, the Federal Ministries have largely succeeded in maintaining this form of cost transparency, albeit not always in accordance with the prescribed methodology. The NKR has criticised this

in its statements. Nevertheless, the NKR acknowledges that the effort involved in determining and presenting compliance costs, in particular where time-sensitive regulatory initiatives are concerned, can place considerable demands on staff for whom drafting and coordination activities already constitute a heavy and in some cases excessive workload.

At the same time, the NKR notes that not all of the regulatory initiatives introduced to parliament by the government under substantial time pressure are directly related to crisis ma-

nagement. Of the 65 regulatory initiatives in the current reporting period with a processing time of three working days or less, over a third had no direct bearing on crisis mitigation. The resulting impression is that exceptions permissible in times of crisis are increasingly becoming the rule, even where no particular urgency is objectively apparent. The time frames in which other ministries and the addressee groups concerned have the chance to scrutinise and comment on draft regulations are becoming shorter and shorter. The periods prescribed in the Joint Rules of Procedure of the Federal Ministries are ignored. Conducting reliable impact assessments in such short periods is all but impossible. Unfortunately, there is no indication that this situation will change in the short to medium term.

The methodology for determining compliance costs must make allowances for this development, and remain feasible in time-sensitive cases. At the same time, it is important to ensure that the process of cost impact assessments overall is not relegated to a mere formality, to be routinely ticked off and then casually ignored. The effort expended by the Federal Ministries and the Federal Statistical Office to determine these costs must be regularly reviewed to ensure its proportionality. In order to secure acceptance and be an effective instrument, cost transparency must go hand in hand with cost avoidance. With the updated Guidelines on the Identification and Presentation of Compliance Costs, the Federal Government has already provided the ministries with a new and simplified procedure. During its current term, the NKR will advocate further improvements to the proportionality and effectiveness of the system currently in place. To this end, a renewed focus on the feasibility and digital readiness of new regulations is needed, as are new incentives for the Federal Ministries to conduct cost

impact assessments and feasibility checks on their own initiative.

4.3. Ex-ante evaluation of compliance costs resulting from legislative proposals by the European Commission

A considerable portion of the legal provisions in force in Germany originate from legislative acts of the EU. Whereas EU directives do not enter into force until they have been transposed into national law, EU regulations apply immediately. While the cost impact of EU directives at least is assessed as part of the procedures to determine compliance costs at the national level, there is very little scope for the results of this assessment to bring about changes to the legislation, as the relevant provisions can only be altered at EU level. This makes it all the more important for impact assessments to occur at a stage where there is still leeway for changes to be made.

In 2016, to allow identification of high or unnecessary compliance costs in connection with EU legislation at an early stage, the EU ex-ante procedure was introduced. Under this procedure, the Federal Ministries and the NKR scrutinise new legislative proposals of the European Commission in terms of their potential cost implications for Germany. For any proposals involving EU-wide compliance costs in excess of 35 million euros according to the impact assessment by the European Commission, the ministries must prepare a cost estimate of their own for Germany. This assessment is then submitted to the NKR for comment. In the current reporting period, the ministries scrutinised a total of 119 initiatives under the EU ex-ante procedure. Due to the recent staffing and organisational changes, the NKR has only been able to conduct a cursory examination of these initiatives.

The procedure has become an integral part of the ministries' everyday work. Germany is substantially ahead of other Member States when it comes to systematic evaluation of the cost implications of EU legislation. In contrast to the national procedure, however, the EU ex-ante procedure takes place solely within the Federal Government. There is no involvement on the part of the Länder, industry associations or experts, and NKR statements are not publis-

hed. In order to be able to better evaluate the impact of legislation at the implementation level, the NKR conducted two pilot schemes in collaboration with the Federal Government to trial the involvement of industry associations in the EU ex-ante procedure. The pilot schemes show that the involvement of these associations yielded additional findings that enhanced the informative value of cost impact assessments.

EU ex-ante pilot schemes

The Federal Ministry for Economic Affairs and Climate Action conducted two studies in collaboration with the industry associations BDA, BDI, DIHK and ZDH to assess whether and to what extent these associations can be involved in the EU ex-ante procedure. To this end, two legislative acts from the European Commission's "Green Deal" were selected:

- *the revision of the Energy Efficiency Directive and*
- *the revision of Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (RED III).*

The associations received valuable information about the potential cost implications from businesses, which were incorporated into the cost impact assessment. Although this increased the assessment's informative value, the Federal Ministry for Economic Affairs and Climate Action still had to rely on assumptions in order to determine the resulting compliance costs in a comprehensive and methodologically sound manner.

A more complex issue, meanwhile, is assessing the actual effectiveness of the EU ex-ante procedure overall, irrespective of the pilot schemes. In negotiations with the European Council, it is the task of the ministries to advocate regulations that minimise the burden on business, citizens and public administration, based on the estimates and statements issued by the NKR. The extent to which this actually occurs, and what influence these findings currently have on the behaviour of German government representatives in Brussels, is difficult to assess. Further enquiries are needed here. The only way for the time and energy invested in the EU ex-ante procedure to yield the

desired success is for efforts towards greater cost transparency to also include the pursuit of genuine cost avoidance. It is vital to prevent the EU ex-ante procedure from becoming a mere formality with no noticeable effect. During its new term of office, the NKR will explore ways to further boost the effectiveness of this procedure.

4.4. Evaluation

In order to be able to make informed decisions, it is important to assess the consequences and cost implications of new regulations in advance

(ex ante). Equally important is examining the consequences and effects observed in practice once a regulation has been in force for a certain period of time (ex post). Ex post Evaluation of legal provisions is an important component of “Better regulation” and completes the policy-making cycle between entry into force and reform of a regulation.

In 2013, the Federal Government drafted a strategy for systematic evaluation of laws and regulations, which it subsequently updated in 2019. As a result of this strategy, Federal Ministries are obliged to perform evaluations for regulations involving substantial costs or where there is uncertainty about the effectiveness of their implementation. The NKR is to be informed of the results of these evaluations. Of the regulatory initiatives examined in the reporting period, around 10 percent are due to be subjected to a systematic evaluation according to the decision of the State Secretaries’ Committee on Bureaucracy Reduction and Better Regulation of 11 January 2016. In the same period, the Federal Government presented ten evaluation reports according to the decision of the State Secretaries’ Committee. A further 38 evaluations are due to be completed by the end of 2022.

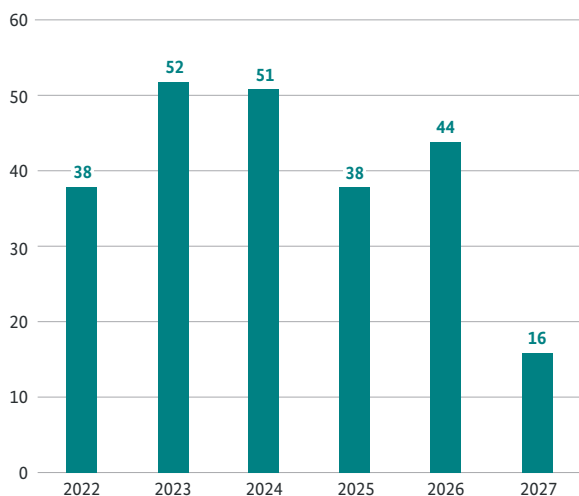


Figure 21: Number of evaluations to be conducted according to the decision of the State Secretaries’ Committee

In the past, the stipulations of the Federal Government for evaluations allowed a broad range of approaches. This led to uncertainties as to the required scope and methodology. Initial findings by the NKR from previous years revealed that the quality of the reports varied considerably. The issue has since been broadly addressed with the 2019 update to the decision of the State Secretaries’ Committee, a guideline for evaluations published in January 2022, and a training programme for experts tasked with conducting evaluations. The NKR believes that these measures will have a positive impact on the quality of evaluations. A question that merits particular attention in the NKR’s view is how the results of these evaluations are taken into account in subsequent stages of the legislative process. A prerequisite for effective, evidence-based governance is the willingness to accept unexpected and in some cases unwelcome evaluation results, to discuss them publicly, and to incorporate them in reforms of the respective fields of law. In especially problematic cases, it should be possible for ineffective or unsuitable regulations to be fundamentally called into question and abolished altogether. The NKR will therefore redouble its efforts to ensure that every significant reform is based on an evaluation.

4.5. Assessment of goals and benefits

Assessment of the compliance and bureaucracy costs of legal provisions is based on an internationally recognised and widely used methodology. Nevertheless, costs – or savings, in cases where costs are eliminated – are only one aspect of the impact of regulation. Regulatory initiatives generally pursue concrete goals, and are intended to bring about a particular benefit. In contrast to the identification of compliance costs, there is as yet no comparably reliable methodology by which to present and quantify the benefits of a regulatory initiative.

With a view to achieving a more holistic perspective on the impact of regulations, in 2019 the Federal Government decided to take a formalised approach to the issue of benefit analysis. As a result of this decision, draft legislation and regulations are generally required to include a coherent analysis of the benefits they are intended to deliver, to be quantified in monetary terms where possible.

Since 2019, the proportion of regulatory initiatives that include a benefit analysis verified by the NKR has risen significantly. However, these benefit analyses are generally limited to a brief and purely qualitative outline. Moreover, if ministries describe the benefit of a regulatory initiative simply as implementing an EU regulation, this defeats the original intention of elucidating the politically desired and socially relevant benefit. So far, the NKR has exercised restraint in its scrutiny of benefit analyses in order to collect relevant experience. In future, it will review the benefit analyses included in regulatory initiatives by the Federal Government more rigorously. In the NKR's view, bene-

fit analysis is an important additional element for a comprehensive description of the impact of regulations. It is the only way to equip political decision-makers to comprehensively assess the costs and impact of an initiative. Benefit analyses supported by concrete figures are crucial in this regard, providing a balanced picture for higher cost burdens in particular.

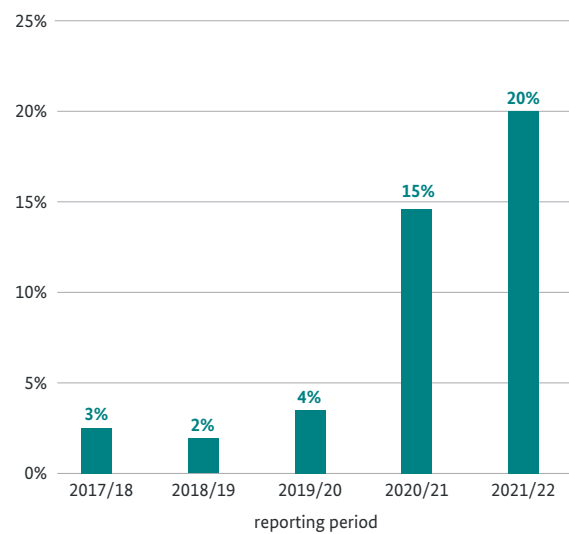
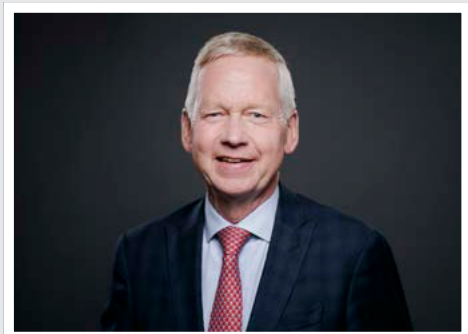


Figure 22: Proportion of regulatory initiatives including a benefit analysis verified by the NKR

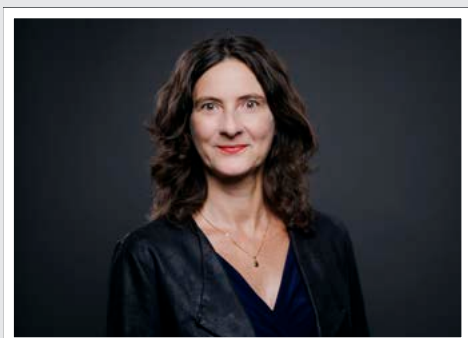
Appendix

Introducing the Council members



Lutz Goebel – has been a member of the NKR since 2022, and was appointed to the position of Chair at the proposal of the Federal Minister of Justice, Dr Marco Buschmann. He is a managing partner in the company Henkelhausen GmbH & Co. KG. He previously served as president of the association Die Familienunternehmer from 2011 to 2017, and is currently a member of the association's Executive Committee. After

completing a degree in civil engineering in Aachen and postgraduate studies in business administration in Lille, he worked in various positions in industry and banking from 1982 to 1984. In 1985, Goebel earned an MBA at INSEAD in Fontainebleu, and subsequently became a managing partner in the machine and plant manufacturer Achenbach Buschhütten. In 1989 he took a management position at the consulting firm Arthur D. Little International, before overseeing marketing and sales at Austrian machine tool manufacturer Emco from 1992 to 1996. From 1996, Goebel worked as an independent management consultant until taking over Henkelhausen GmbH & Co. KG in 1998 through a management buy-in in collaboration with a financial investor.

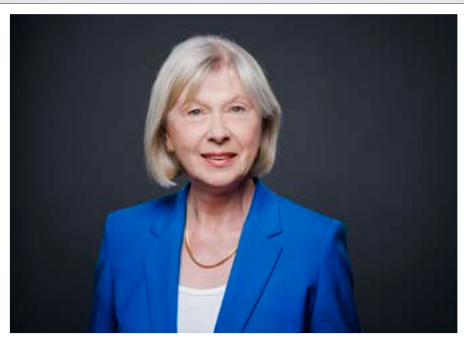


Prof. Dr Sabine Kuhlmann – has been a member of the NKR since 2013, and Deputy Chair since 2017. Since 2013 she has held the Chair of Political Science, Public Administration and Organisation at the University of Potsdam, and since 2018 the Hedda Andersson Chair at the University of Lund, Sweden. Prof. Kuhlmann studied Social Sciences at the Humboldt University of Berlin, where she subsequently earned her doctorate. After obtaining her habilitation at the

University of Potsdam, she worked at various German universities, including as chair of “Comparative Public Administration with a Focus on Administration in Europe” at the German University of Administrative Sciences Speyer. Kuhlmann teaches, researches and publishes in fields including administrative modernisation and digitalisation, comparative public administration, local self-government, and administration and crises. She is a member of the National Academy of Public Administration (USA), a board member of the International Institute of Administrative Sciences, and deputy editor of the *International Review of Administrative Sciences*. She is the NKR's rapporteur for the Federal Ministry of the Interior and the Federal Ministry of Defence.



Garrelt Duin – joined the NKR in 2022. Since 2019 he has been executive director of the Chamber of Skilled Trades in Cologne (Handwerkskammer zu Köln); from 2018 to 2019 he was Chief Human Resources Officer at thyssenkrup AG. He served as Land Minister for Economic Affairs, Energy, Industry, SMEs and the Skilled Trades Sector in North Rhine-Westphalia from 2012 to 2017, and has chaired the administrative board of NRW.Bank. During his time as a Member of the German Bundestag from 2005 to 2012, his roles included economic policy spokesperson for the Social Democratic Party parliamentary group and spokesperson of the “Seeheimer Kreis” grouping within the Social Democratic Party. As a Member of the European Parliament from 2000 to 2005, he was responsible for the Weser-Ems administrative district. Duin studied Law and Protestant Theology in Bielefeld and Göttingen. After passing the second state examination in law, he initially worked as a freelance lawyer. He is the NKR’s rapporteur for the Federal Ministry for Economic Affairs and Climate Action and the Federal Ministry for Education and Research.



Gudrun Grieser – has been a member of the NKR since 2011. From 2015 to 2019 she was chair of the university council at the University of Applied Sciences Würzburg-Schweinfurt. During her tenure as mayor of the city of Schweinfurt from 1992 to 2010, she chaired the supervisory boards of Stadtwerke Schweinfurt GmbH, Leopoldina-Krankenhaus der Stadt Schweinfurt GmbH and Stadt- und Wohnbau Schweinfurt GmbH, the shareholder meeting of Gemeinschaftskraftwerk Schweinfurt GmbH and the administrative board of Sparkasse Schweinfurt. During the same period, Grieser was a member of the executive committee of the Bavarian Association of Cities (Bayerischer Städtetag), and from 1992 to 2009 she was a member of the Land executive committee for Bavaria of the Christian Social Union party. From 1975 to 1992 she taught as a secondary school teacher at the Olympia-Morata-Gymnasium Schweinfurt. Grieser studied English and history at the Julius Maximilian University of Würzburg. She is the NKR’s rapporteur for the Federal Ministry for Digital and Transport and the Federal Ministry for Housing, Urban Development and Building.



Dr jur. Reinhard Göhner – has been a member of the NKR since 2022. He is an attorney-at-law, a certified employment lawyer, and managing director of ISWA gGmbH in Berlin. In addition, he is a member of the supervisory board of the mutual insurance society PSVaG, and has been a member of the administrative board of broadcaster ZDF since 2012.

He was previously executive director of the Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA) from 1996 to 2016, and executive director of the serial furniture trade association Verband der Serienmöbelbetriebe from 1981 to 1990. During his time as a member of the Bundestag from 1983 to 2007, he served as Parliamentary State Secretary at the Federal Ministry of Justice from 1991 to 1993, and at the Federal Ministry for Economic Affairs from 1993 to 1994. From 1986 to 1990 he chaired the Bundestag Committee for the Environment, Nature Conservation and Nuclear Safety. Dr Göhner studied law, sociology and economics in Bielefeld. He is the NKR's rapporteur for the Federal Ministry for Labour and Social Affairs.



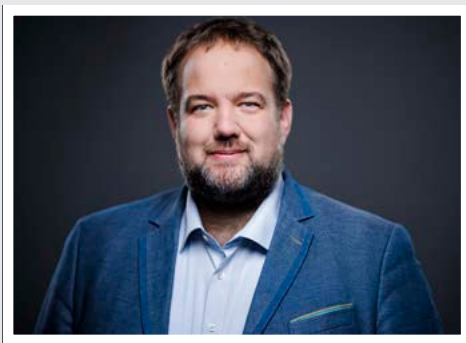
Ulla Ihnen – joined the NKR in 2022. She is a member of the Free Democratic Party in Lower Saxony, a jurist in public administration and a member of Hanover City Council. Since 2017, she has been a member of the broadcasting council of public broadcaster NDR. As a member of the Bundestag from 2017 to 2021, she served as an ordinary member of the Budget Committee, as spokesperson for the Auditing Committee and

as an alternate member of the Committee on Legal Affairs. From 2018 to 2022, she belonged to the board of trustees of KENFO. After completing her law degree, Ihnen initially worked as a lawyer before taking a position at Deutsche Bundesbank as deputy head of the legal division of the Land Central Bank in Lower Saxony. In 1988 she was appointed Head of the Minister's Office in the Lower Saxony Ministry for Federal and European Affairs. She subsequently worked as a national expert at the European Commission in Brussels. In late 1991, she oversaw the creation of an information office representing the Land of Mecklenburg-Western Pomerania in Brussels, which she headed until 1997. In 1997 she was elected as councillor by the district of Uelzen for a period of 12 years. Since mid-2005 she has worked at the Environment Ministry in Hanover, where she served as State Secretary for Environment, Energy and Climate Action from 2012 to 2013. She is the NKR's rapporteur for the Federal Ministry of Finance.



Kerstin Müller – joined the NKR in 2022. Since 2019, she has been a Senior Associate Fellow at the German Council on Foreign Relations (DGAP) with a focus on the Middle East and German-Israeli relations. She also serves on the advisory board of the German affiliate of the European Leadership Network, ELNET Germany, dedicated to strengthening relations between Germany and Israel. From 2013 to 2018 she

was in charge of the Israel office of the Heinrich Böll Foundation in Tel Aviv. She was previously a member of the Bundestag for the Alliance 90/The Greens party from 1994 to 2013. During this time, she served as chair of the party's parliamentary group in the Bundestag from 1994 to 2002, and Minister of State at the Federal Foreign Office from 2002 to 2005. From 2005 to 2013, as a member of the Foreign Affairs Committee she was foreign policy spokesperson for the Alliance 90/The Greens parliamentary group and deputy chair of the Subcommittee on Civilian Crisis Prevention. Müller studied law in Cologne. She is the NKR's rapporteur for the Federal Ministry of Justice, the Federal Foreign Office and the Federal Ministry for Economic Cooperation and Development.



Malte Spitz – joined the NKR in 2022. He is a co-founder and current secretary general of the Society for Civil Rights (Gesellschaft für Freiheitsrechte, GFF), dedicated to strengthening fundamental and human rights by legal means. From 2013 to 2022 he was a member of the Alliance 90/The Greens party council. He previously served as a member of the party's full-time six-person federal executive for seven years. In

the 2021 coalition negotiations he led the working group "Digital Innovations and Digital Infrastructure". As a freelance writer, he gives regular talks on the topics of digital policy, data protection and digital transformation, and writes guest articles for international publications. In 2014 he published the book "Was macht ihr mit meinen Daten?" (What are you doing with my data?), and in 2017 the book "Daten – Das Öl des 21. Jahrhunderts? Nachhaltigkeit im digitalen Zeitalter" (Data – The Oil of the 21st Century? Sustainability in the digital age). From 2003 to 2006, Spitz was a member of the federal executive and political director of the youth organisation Grüne Jugend (Green Youth). He is the NKR's rapporteur for the topic "Digital administration and digital-ready legislation", for the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection and for the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth



Dorothea Störr-Ritter – has been a member of the NKR since 2011. A Baden-Württemberg politician and member of the Christian Democratic Union, she has served as district commissioner for Breisgau-Hochschwarzwald since 2008. She studied law at the Ludwig Maximilian University of Munich and the University of Konstanz. After her studies she spent several years working in a family-owned

business before practising as a freelance lawyer from 1989. She was a member of the Bundestag from 1998 to 2002. From 2002 to 2005 she served as secretary of the Christian Democratic Union for Baden-Württemberg. From 2002 to 2008 she was president of the Baden-Württemberg association for the self-employed (Bund der Selbständigen Baden-Württemberg e.V.) and from 2006 to 2008 president of the German association for the self-employed (Bund der Selbständigen Deutschland e.V.). For a number of years she sat on the broadcasting council of the regional broadcaster SWR. She is the NKR's rapporteur for the topic "Modern administration and effective state" and for the Federal Ministry of Food and Agriculture.



Andrea Wicklein – has been a member of the NKR since 2019. She is a partner at Republic Affairs GmbH and director of the association of former members of the Bundestag and of the European Parliament (Vereinigung der ehemaligen Abgeordneten des Deutschen Bundestages und des Europaparlaments). From 2002 to 2017 she served as a member of the Bundestag, where she sat on the Committee

on Economic Affairs and Energy, and from 2006 to 2009 as spokesperson of the working group on the development of East Germany for the Social Democratic Party parliamentary group. From 2011 she served as commissioner for SMEs and the liberal professions of the Social Democratic Party parliamentary group. After completing a distance learning qualification as a certified trade economist at the Leipzig Graduate School of Management, she initially worked as a clerk at Handelsorganisation Potsdam, and then as a teacher at a vocational college for health and social services. Until 1990 she taught in adult education at the Betriebsakademie des Einzelhandels (Retail Business Academy) in Potsdam. She found her way into politics in 1992 as a research associate for a member of the Bundestag. In 2000, she took a position as a public relations expert for the Brandenburg parliamentary group of the Social Democratic Party. She is the NKR's rapporteur for the Federal Ministry of Health and the Federal Chancellery.

Retrospective of selected relevant events

| Date | Event |
|-------------|---|
| 20/09/2021 | End of the NKR's third term |
| 26/09/2021 | Election of the 20th German Bundestag |
| 08/12/2021 | Responsibility for the NKR transferred from the Federal Chancellery to the Federal Ministry of Justice by organisational decree of the Federal Chancellor |
| 12/01/2022 | New Act Establishing a National Regulatory Control Council adopted by the Federal Cabinet |
| 12/05/2022 | New Act Establishing a National Regulatory Control Council adopted by the Bundestag |
| 17/05/2022 | New Act Establishing a National Regulatory Control Council adopted by the Bundestag |
| 22/07/2022 | Certificate of appointment awarded to Council member Ulla Ihnen |

Expert reports commissioned by the NKR to date

| Datum | Report title |
|--------------|---|
| 04/2013 | Quantifying the benefits of regulatory proposals. International practice |
| 10/2013 | Expert report on the implementation of ex-post evaluations – Good practice and experience in other countries |
| 2014 | OECD Regulatory Compliance Cost Assessment Guidance |
| 02/2015 | Implementation-oriented legislation: How can the EU, the Federal Government, the Federal States and municipalities determine the follow-up costs of legal requirements better? |
| 11/2015 | E-Government in Deutschland: Vom Abstieg zum Aufstieg (E-Government in Germany: From Decline to Ascent) |
| 06/2016 | E-Government in Germany: Pathway to Success – A Work Programme |
| 10/2017 | Mehr Leistung für Bürger und Unternehmen: Verwaltung digitalisieren. Register modernisieren. (Better Performance for Citizens and Businesses: Digital Administration. Modern Registries.) |
| 04/2019 | Opportunities for speeding up administrative court proceedings pertaining to projects for the construction of infrastructure facilities and industrial installations |
| 10/2019 | Content First, Legal Text Second. Designing Effective and Practicable Legislation. |
| 06/2021 | Digital Public Service Provision Needs Digitally Compatible Law – The Modular Concept of Income |
| 06/2021 | Das Servicehandbuch – Wegweiser für die Digitalisierung von Verwaltungsleistungen (The Digital Service Manual – Guide to the Digitalisation of Administrative Services) |

Selected NKR events in the reporting period during the third term

| Date | Event | NKR represented by |
|------------|---|----------------------------------|
| 26/07/2021 | Meeting with Dr Kriedel, Board Member of the National Association of Statutory Health Insurance Physicians (Kassenärztliche Bundesvereinigung, KBV) | Wicklein |
| 29/07/2021 | Meeting with Dr Richter, State Secretary at the Federal Ministry of the Interior and Community and Federal Government Commissioner for Information Technology | Prof. Dr Kuhlmann |
| 03/08/2021 | Meeting with Prof. Braun, Head of the Federal Chancellery | Dr Ludewig |
| 17/08/2021 | Meeting with Ms Andreae, Chair of the Executive Board of the German Energy and Water Association (Bundesverband der Energie- und Wasserwirtschaft e.V., BDEW) | Dr Ludewig |
| 18/08/2021 | Meeting with Ms Esken, leader of Germany's Social Democratic Party | Dr Ludewig, Wicklein |
| 24/08/2021 | Meeting with Federal President Walter Steinmeier | Dr Ludewig, Prof. Dr Kuhlmann |
| 27/08/2021 | Meeting with Mr Bürger, Director-General for "Digital administration; supervision of the Online Access Act" in the Federal Ministry of the Interior | Prof. Dr Kuhlmann |
| 02/09/2021 | Meeting with Dr Hoppenstedt, Minister of State to the Federal Chancellor and Federal Government Coordinator for Bureaucracy Reduction and Better Legislation | Dr Ludewig |
| 06/09/2021 | Meeting with Dr Richter, State Secretary at the Federal Ministry of the Interior and Federal Government Commissioner for Information Technology | Dr Ludewig |
| 06/09/2021 | Participation in the Creative Bureaucracy Festival | Dr Ludewig |
| 13/09/2021 | Meeting with Prof. Gropp, President of the Halle Institute for Economic Research (IWH) | Dr Ludewig |
| 16/09/2021 | Handover of the Annual Report to Federal Chancellor Dr Angela Merkel | alle |
| 16/09/2021 | Meeting with Mr Silberbach, national chair of the German Civil Service Federation DBB | Störr-Ritter |
| 17/09/2021 | Meeting with Mr Šefčovič, Vice-President of the European Commission | Dr Ludewig |

Selected NKR events during the transition from the third to the fourth term

| Date | Event | NKR represented by |
|-------------|---|---------------------------------------|
| 29/09/2021 | Ministerial Congress and award ceremony for the 20th eGovernment competition | Störr-Ritter |
| 07/10/2021 | Meeting with Dr Richter, State Secretary at the Federal Ministry of the Interior and Federal Government Commissioner for Information Technology | Dr Ludewig |
| 07/10/2021 | Participation in the 2021 Annual Conference of the Network for Better Regulation and Bureaucracy Reduction | Prof. Dr Kuhlmann |
| 08/10/2021 | Meeting with Mr Seibert, Head of Cabinet of the European Commission President | Dr Ludewig |
| 14/10/2021 | Participation in the Baden-Württemberg Regulatory Control Council symposium "Requirements of a good law – today" | Störr-Ritter, Prof. Dr Mayer-Bonde |
| 26/10/2021 | Participation in the 2021 BITKOM Smart Country Convention on the status of implementation of the Online Access Act | Störr-Ritter |
| 27/10/2021 | Meeting with the executive directors of central industry associations | Dr Ludewig, Schleyer |
| 28/10/2021 | Keynote speech at Führungsakademie Berlin (Berlin Management Academy) on the topic of administrative modernisation | Prof. Dr Kuhlmann |
| 05/11/2021 | Participation in the 2021 Frankfurt Regulatory Conference | Dr Ludewig |
| 15/11/2021 | Participation in the Forum Bellevue "Is the state up to it? Drawing lessons from the pandemic" hosted by the Federal President. | Prof. Dr Kuhlmann |
| 30/11/2021 | Meeting with Mr Haeusgen and Ms Bröcker, Mechanical Engineering Industry Association VDMA | Dr Ludewig |
| 01/12/2021 | RegWatchEurope – Board Meeting | Dr Ludewig |
| 02/12/2021 | Participation in the "High Level Conference: Joining Forces for the Next Generation of Better Regulation" | Dr Ludewig |
| 07/12/2021 | Participation in the event "Impact orientation and regulatory control" by the Gesellschaft für Programmforschung (GfP) | Prof. Dr Kuhlmann |
| 21/12/2021 | Meeting with Dr Buschmann, Federal Minister of Justice | Prof. Dr Kuhlmann, Schleyer |
| 13/01/2022 | Meeting with Dr Schlunck, State Secretary at the Federal Ministry of Justice | Prof. Dr Kuhlmann |
| 03/02/2022 | Meeting with Ms Tschan, State Secretary at the Federal Ministry of Labour and Social Affairs | Prof. Dr Kuhlmann, Dückert |
| 11/02/2022 | Meeting with the German Stroke Foundation (Deutsche Schlaganfallhilfe) | Wicklein |
| 17/02/2022 | Meeting with Dr Brzezinski, executive director of the Dresden Chamber of Skilled Trades | Schleyer |
| 17/02/2022 | Meeting with the working group for economic affairs of the FDP parliamentary group in the Bundestag | Prof. Dr Kuhlmann |

Selected NKR events attended by the newly-appointed Council in the reporting period during the fourth term

| Date | Event | NKR represented by |
|-------------|--|---------------------------|
| 23/03/2022 | Meeting with Dr Kriedel, Board Member of the National Association of Statutory Health Insurance Physicians (Kassenärztliche Bundesvereinigung, KBV) | Wicklein |
| 17/05/2022 | Presentation of certificates of appointment by the Federal President and inaugural session of the NKR (certificate of appointment retrospectively awarded to Ulla Ihnen on 22 July 2022) | alle |
| 19/05/2022 | Meeting with Mr Roloff, Member of the Bundestag, spokesperson for Bureaucracy Reduction for the SPD parliamentary group | Goebel |
| 20/05/2022 | Meetings with Ms Klöckner, Member of the Bundestag, economic policy spokesperson for the CDU/CSU parliamentary group, Mr Amthor, Member of the Bundestag, spokesperson for state organisation and modernisation for the CDU/CSU parliamentary group, Mr Außendorf, Member of the Bundestag, digital policy spokesperson for the Alliance 90/The Green party | Goebel |
| 31/05/2022 | Gespräch mit Herrn Scheller, Präsident des Bundesrechnungshofes Meeting with Mr Scheller, President of the Federal Court of Audit (Bundesrechnungshof) | Goebel |
| 07/06/2022 | “Deep dive” on the digital-readiness check with the Federation of German Industries (Bundesverband der Deutschen Industrie, BDI) | Störr-Ritter |
| 08/06/2022 | Meeting with Dr Schlunck, State Secretary at the Federal Ministry of Justice (BMJ) | Goebel |
| 09/06/2022 | RegWatchEurope – Board Meeting in Prague | Prof. Dr Kuhlmann |
| 10/06/2022 | Meeting with Prof. Pinkwart, Minister for Economic Affairs in North Rhine-Westphalia | Goebel |
| 10/06/2022 | Re:publica meetup on the digital transformation of public administration | Spitz |
| 14/06/2022 | Meeting with Mr Thiel, President of the Federal Statistical Office (Statistisches Bundesamt) | Goebel |
| 16/06/2022 | Meeting with Ms Khan, Member of the Bundestag, chair of the Alliance 90/The Greens party in Rhineland-Palatinate | Prof. Dr Kuhlmann |
| 21/06/2022 | Meeting with representatives of BITKOM | Spitz |
| 22/06/2022 | Participation in the “Future Congress” (Zukunftskongress) on the digital transformation of public administration | Goebel, Spitz |
| 22/06/2022 | Meeting with Dr Linnemann, Member of the Bundestag, deputy chair of the Christian Democratic Union and chair of the policy commission | Goebel |
| 28/06/2022 | Seminar on fitness for implementation at the Führungsakademie Baden-Württemberg | Störr-Ritter |
| 29/06/2022 | Meetings with Dr Weise, chair of the board of the Hertie Foundation, Dr Ruge, deputy executive director of the Association of German Districts (Deutscher Landkreistag), Dr Berger, Head of Digitalisation, Bureaucracy Reduction and Modernisation of the State at the Association of German Districts, Mr Silberbach, national chair of the German Civil Service Federation DBB, Prof. Koch, chair of the Ludwig Erhard Foundation | Goebel |

Evaluation of regulatory initiatives

| Year | Federal Ministry | Regulatory initiative |
|------|---|---|
| 2022 | BMWK (Economic Affairs and Climate Action) | Act to Implement the Supervisory and Professional Requirements of Directive 2014/56/EU and the Provisions of Regulation (EU) No. 537/2014 regarding statutory audits of public-interest entities |
| 2022 | BMWK (Economic Affairs and Climate Action) | Draft Act Reorganising Responsibility for Nuclear Waste Management |
| 2022 | BMF (Finance) | Draft Act to Combat Tax Avoidance and Amend Additional Tax Provisions |
| 2022 | BMF (Finance) | Act to Establish an Economic Stabilisation Fund |
| 2022 | BMDV (Digital and Transport) | Draft Act on the Introduction of an Infrastructure Charge for the Use of the German Federal Trunk Road Network |
| 2022 | BMEL (Food and Agriculture) | Ordinance on the Use of Nutrients on Farms and Material Flow Accounting in Agriculture |
| 2022 | BMWK (Economic Affairs and Climate Action) | Draft Act Amending the Renewable Energy Sources Act, the Combined Heat and Power Act and Other Energy Law Provisions |
| 2022 | Federal Chancellery | Draft Act on Foreign-Foreign Signals Intelligence Gathering by the Federal Intelligence Service |
| 2022 | BMF (Finance) | KfW Ordinance |
| 2022 | BMG (Health) | Draft Act to Improve the Provision of Healthcare through Digitalisation and Innovation |
| 2022 | BMDV (Digital and Transport) | Fourth Act Amending the German Federal Trunk Road Toll Act |
| 2022 | BMDV (Digital and Transport) | Draft Ordinance on the Participation of Personal Light Electric Vehicles in Road Traffic and Amending Other Road Traffic Provisions |
| 2022 | BMF (Finance) | Ordinance on Reporting Requirements in the Real Estate Sector Pursuant to the Money Laundering Act |
| 2022 | BMI (Interior, Building and Community) | Draft Act Implementing Directive (EU) 2016/1148 of the European Parliament and the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union |
| 2022 | BMI (Interior, Building and Community) | First Draft Act Amending the Europol Act |
| 2022 | BMAS (Labour and Social Affairs) | Draft Act to Further Develop Legislation on Equal Opportunities for Persons with Disabilities |
| 2022 | BMDV (Digital and Transport) | Act Prohibiting the Operation of Loud Freight Trains |

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| 2022 | BMFSFJ (Family Affairs, Senior Citizens, Women and Youth) | Draft Act on Targeted Support for Families and their Children by means of a Reform of the Child Supplement and Improved Services for Education and Participation |
| 2022 | BMF (Finance) | Ordinance on the Content of Audit Reports on the Annual Accounts and Solvency Statements of Insurance Companies |
| 2022 | BMWK (Economic Affairs and Climate Action) | Act to Reduce and End Coal-Fired Power Generation and to Amend Other Acts |
| 2022 | BMF (Finance) | Draft Accompanying Act on the Restructuring of the National Fiscal Equalisation System from 2020 and on the Modification of Budgetary Provisions |
| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Twenty-second Ordinance on the Implementation of the Federal Immission Control Act |
| 2022 | BMF (Finance) | Draft Second Act Reducing the Tax Burden on Families and Amending Other Tax Provisions |
| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Ordinance on the Reform of Sewage Sludge Utilisation |
| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Act on National Allowance Trading for Fuel Emissions |
| 2022 | BMG (Health) | Eighteenth Regulation Amending the Drug Prescription Ordinance |
| 2022 | BMF (Finance) | Draft Ordinance Amending the Ordinance on Remuneration in Credit Institutions |
| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | General Administrative Regulation for the Implementation of Implementing Decisions 2014/687/EU and 2014/738/EU |
| 2022 | BMAS (Labour and Social Affairs) | IDraft Integration Act |
| 2022 | BMG (Health) | Draft Act to Reform the Care Professions |
| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Act on the Putting into Circulation, Return and High-quality Recovery of Packaging |
| 2022 | BMI (Interior, Building and Community) | Draft Act to Implement Directive 2014/55/EU on electronic invoicing in public procurement |
| 2022 | BMVG (Defence) | Ordinance on Preparatory Training for Higher Intermediate Fire Service in the Federal Armed Forces |

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| 2022 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Ordinance on Installations Handling Substances Harmful to Water |
| 2022 | BMAS (Labour and Social Affairs) | Draft Act Extending Temporary Provisions to Promote Employment and Implementing Directive (EU) 2016/2102 on the accessibility of the websites and mobile applications of public-sector bodies |
| 2022 | BMAS (Labour and Social Affairs) | Proposed wording for a Draft Act Amending the Federal War Victims' Compensation Act and Other Regulations |
| 2022 | BMWK (Economic Affairs and Climate Action) | Seventeenth Ordinance Amending the Foreign Trade and Payments Ordinance |
| 2022 | BMWK (Economic Affairs and Climate Action) | First Act Amending the Foreign Trade and Payments Act and Other Acts |
| 2023 | BMF (Finance) | Draft Act to Implement the Climate Action Programme 2030 in Tax Law |
| 2023 | BMWK (Economic Affairs and Climate Action) | Draft of a Third Act to Reduce Bureaucracy for the SME Sector in Particular |
| 2023 | BMJ (Justice) | Draft Act to Reform Construction Contract Law and to Amend Liability for Defects under Sales Law |
| 2023 | BMAS (Labour and Social Affairs) | Second Ordinance Amending the Occupational Health Care Ordinance |
| 2023 | BMJ (Justice) | Draft Act Implementing the Professional Qualifications Directive and Amending Other Provisions Relating to Professions Providing Legal Advice |
| 2023 | BMF (Finance) | Draft Act Modernising the Taxation Process |
| 2023 | BMWK (Economic Affairs and Climate Action) | Ordinance Implementing Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution |
| 2023 | BMEL (Food and Agriculture) | Draft of a Second Ordinance Amending the Ordinance on Veterinary Dispensaries |
| 2023 | BMWK (Economic Affairs and Climate Action) | Draft Act Implementing Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution |
| 2023 | BMI (Interior, Building and Community) | Draft Act to Increase the Security of Information Technology Systems |
| 2023 | BMG (Health) | Draft Act Amending Medical Product Law in line with Regulation (EU) 2017/745 and Regulation (EU) 2017/746 |
| 2023 | BMI (Interior, Building and Community) | Draft Act Reforming the Microcensus and Amending Other Statistics Legislation |

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| 2023 | BMI (Interior, Building and Community) | Draft Act for better and More Independent Invoice Checks – Health Insurance Medical Services Reform Act |
| 2023 | BMG (Health) | Gesetz für bessere und unabhängigere Prüfungen – MDK-Reformgesetz |
| 2023 | BMWK (Economic Affairs and Climate Action) | Draft of a Tenth Act Amending the Act against Restraints of Competition and creating a Focused, Proactive and Digital Competition Law 4.0 |
| 2023 | BMF (Finance) | Ordinance on Product Information Documents and Other Information Requirements for Certified Retirement and Basic Pension Contracts under the Act Governing the Certification of Contracts for Retirement Provision |
| 2023 | BMDV (Digital and Transport) | Draft Act Amending National Provisions in line with Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft |
| 2023 | BMAS (Labour and Social Affairs) | Ordinance on Job-Related Language Training |
| 2023 | BMWK (Economic Affairs and Climate Action) | Draft Act Amending the E-Government Act and Introducing the Act on the Use of Open Data |
| 2023 | BMVG (Defence) | Act to Increase the Long-Term Operational Readiness of the Federal Armed Forces |
| 2023 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Ordinance on the Management of Commercial Municipal Waste and of Certain Types of Construction and Demolition Waste |
| 2023 | BMF (Finance) | Draft Act and Technical Ordinance on Preventing the Manipulation of Digital Primary Records |
| 2023 | BMUV (Environment, Nature Conservation, Nuclear Safety and Consumer Protection) | Draft Act Reforming the Law on Protection from the Harmful Effects of Ionising Radiation |

Overview of NKR members during previous terms

Members of the National Regulatory Control Council (1st term, 2006 to 2011)

Dr Ludewig, Johannes (*chair*)
 Catenhusen, Wolf-Michael (*deputy chair*)
 Bachmaier, Hermann
 Dr Barbier, Hans D. (*until February 2010*)
 Prof. Färber, Gisela
 Funke, Rainer (*from February 2010*)
 Kreibohm, Henning
 Dr Schoser, Franz (*from December 2006*)
 Prof. Snower, Dennis J. (*until December 2006*)
 Prof. Wittmann, Johann

Enlargement of the Council to 10 Members (*March 2011*):

Lechner, Sebastian
 Prof. Versteyl, Andrea

Members of the National Regulatory Control Council (2nd term, 2011 to 2016)

Dr Ludewig, Johannes (*chairperson*)
 Catenhusen, Wolf-Michael (*deputy chair*)
 Dr Dückert, Thea
 Funke, Rainer (*until September 2016*)
 Grieser, Gudrun
 Hahlen, Johann (*March 2013 to September 2016*)
 Prof. Kuhlmann, Sabine
 Lechner, Sebastian (*until March 2013*)
 Schleyer, Hanns-Eberhard
 Störr-Ritter, Dorothea
 Prof. Versteyl, Andrea

Members of the National Regulatory Control Council (3rd term, 2016 to 2021)

Dr Ludewig, Johannes (*chair*)
 Prof. Kuhlmann, Sabine (*deputy chair*)
 Catenhusen, Wolf-Michael (*until April 2019*)
 Dr Dückert, Thea
 Grieser, Gudrun
 Dr Holtschneider, Rainer (*from September 2016*)
 Schleyer, Hanns-Eberhard
 Störr-Ritter, Dorothea
 Prof. Versteyl, Andrea
 Prof. Cornelia Mayer-Bonde (*from September 2016*)
 Wicklein, Andrea (*from September 2019*)

Members of the National Regulatory Control Council (4th term, 2022 to 2027)

Goebel, Lutz (*chair*)
Prof. Kuhlmann, Sabine (*deputy chair*)
Duin, Garrelt
Grieser, Gudrun
Dr Göhner, Reinhard
Innen, Ulla
Müller, Kerstin
Spitz, Malte
Störr-Ritter, Dorothea
Wicklein, Andrea

Heads of the Secretariat of the National Regulatory Control Council:

Henter, Alwin (*1st term*)
Dr Böllhoff, Dominik (*2nd term*)
Spengler, Florian (*3rd term*)
Kühn, Hannes (*4th term*)

Ministers of State for Bureaucracy Reduction in the Federal Chancellery since 2005:

Minister of State Hildegard Müller, November 2005 to September 2008
State Secretary Hans Bernhard Beus, October 2006 to December 2007, deputy for
Minister of State Müller
Minister of State Hermann Gröhe, October 2008 to October 2009
Minister of State Eckardt von Klaeden, October 2009 to September 2013
Minister of State Prof. Helge Braun, December 2013 to March 2018
Minister of State Dr Hendrik Hoppenstedt, since March 2018

Federal Government Coordinator for Better Regulation and Bureaucracy Reduction since 2022:

Benjamin Strasser, Member of the German Bundestag and Parliamentary State Secretary
to the Federal Minister of Justice

Publication data

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