



# Measuring compliance costs

## Integrating practical methodologies in impact assessments

### - Experiences in Germany -

Federal Chancellery, Better Regulation Unit

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## Germany in a nutshell – re Better Regulation

- More than 82 million people live in 16 states and far more than 10.000 municipalities
- Each public authority has its own indispensable competences and its own democratic legitimation by general, direct, free, equal and secret elections
- In general, there is no right to give directives to other levels of administration. Cooperation across the administrative levels is the rule, not an exception.
- Most laws in Germany are federal laws. But, the execution of federal laws is in general an obligation of states and municipalities in their sole and individual responsibility. Only a few legal areas have a federal administration.
- The chancellor determines (only) the policy guidelines. Every minister carries the responsibility for his/her own domain.
- The Federal Government (cabinet) acts and decides according to the principle of collective responsibility.
- Federal government (cabinet) drafts most legal proposals to the parliament

However, all together, it works out quite fine. 😊



# Challenges to Measuring and Reducing Compliance Costs

## Starting point: A mission statement respecting the political process

We provide political decision makers with informations inter alia on compliance costs in order to support informed decision making.

We do not substitute politics by mathematics, since different politicians might draw different conclusions from the same facts.

## General challenges

- Priority in a political environment, which faces new challenges frequently
- Effective methods, institutions and procedures
- Effecient use of methods, institutions and procedures

## Methodological challenges

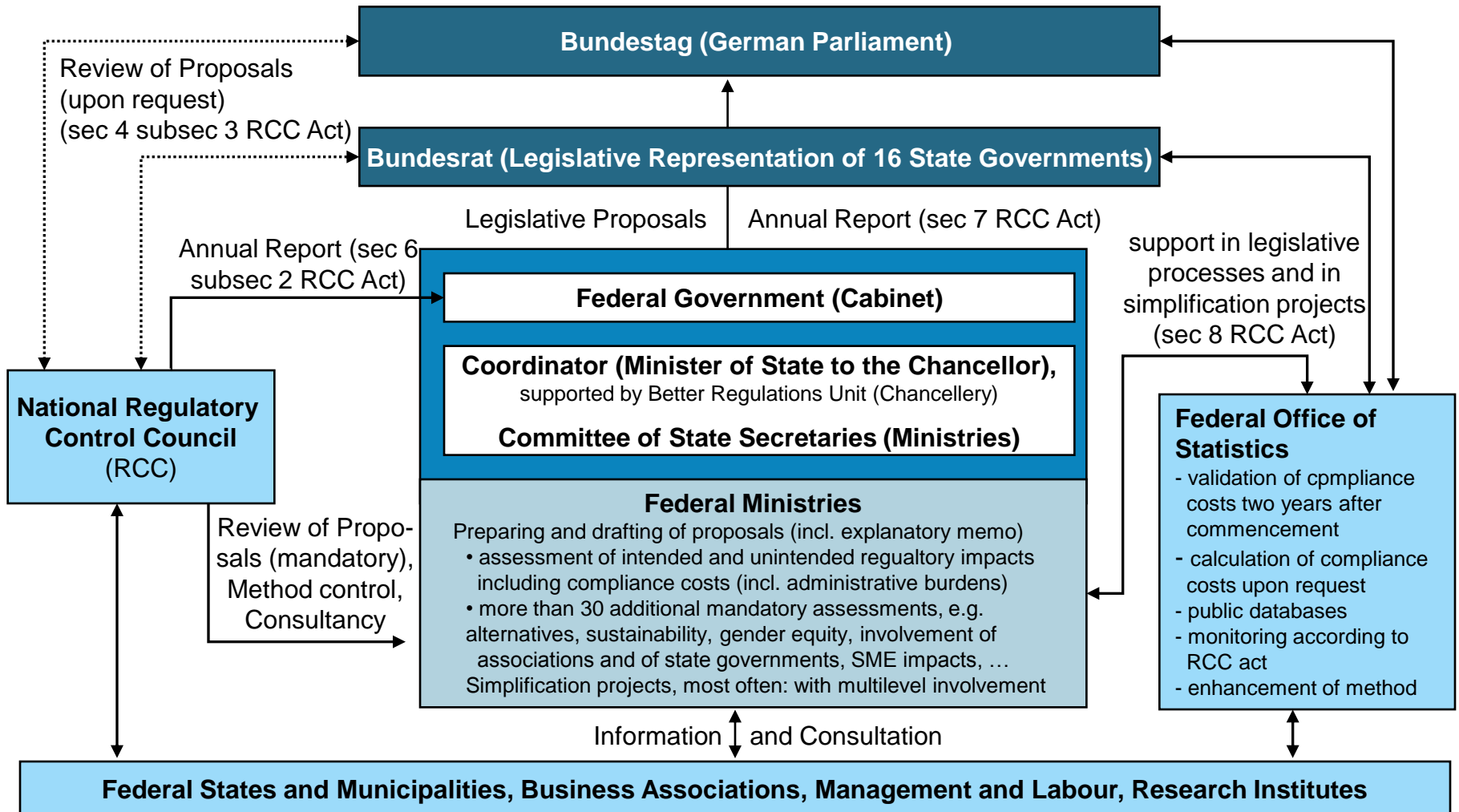
- Do we measure the right objects?
- Do we do it in the least burdensome way?
- Are the informations we provide to the political decision makers relevant to them?



## Highlights of Better Regulation in German Government

- 1956 Rudolf Zorn, a former state secretary in Bavaria, publishes „The simplification of administration“; 1963: „The suffering of simplification“
- 1983, 1988, 1995, 1997 Several committees at different federal ministries
- 1984 Introduction of „blue checklist“ for law drafting at fed. ministries (10 chapters, e.g. questions on alternatives, compliance costs, cost-benefit-ratio)
- 1989 Blue checklist becomes an obligatory part of fed. law drafting-procedures
- 1997 State secretaries concede, that blue checklist does not meet the expectations re. better regulation; expert committee calls for - inter alia - a legal examination unit in the chancellery, to decide if a draft is ready for cabinet
- 2000 New, obligatory chapter on impact assessment in the joint rules of proced.
- 2006 in addition: Introduction of independent Regulatory Control Council and Fed. Government's coordinator, implementation of SCM as binding methodology
- 2010 Broadening of 2006's programme beyond SCM: compliance costs, etc.
- today Joint rules: legislative proposals have to cover up to 37 issues re. impact assessment and consulting; 6 of them are subject to the RCC procedures

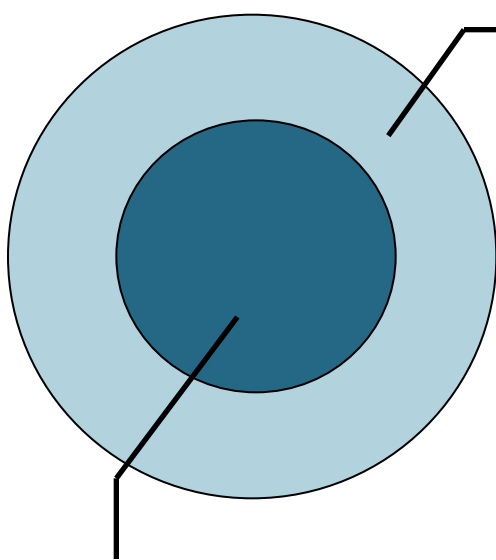
# Players involved in the Better Regulation System





# Ministries have to declare the compliance costs citizens, businesses and public authorities have to bear

## What is part of compliance costs:



Costs from substantive obligations, e.g. installation of a particle filter

Costs from information obligations, e.g. documentation of the installation of the filter

## What is not part of CC:

- ▶ Macroeconomic effects, such as:
  - effects on competition and economic growth
  - effects on investment decisions
- ▶ taxes, social security contributions, monetary benefits according to Art. 104a of the German Basic Law
- ▶ benefits of a regulation

Remark:

These informations have to be provided in other parts of the explanatory memorandum anyway.



## Measuring compliance costs in a nutshell

The compliance costs for legislative proposals of the Federal Government are in general identified and described in the following steps:

- Step 1: Identification of all obligations contained in the proposal (singular provisions) that lead to a change in compliance costs; if necessary, cluster obligations to form processes or form case groups
- Step 2: Identification of the change in compliance costs
  - Step 2.1: Identification of the change in the number of cases per obligation/process/case group
  - Step 2.2: Identification of the change in the costs of each case per obligation/process/case group
  - Step 2.3: Identification of the total change in compliance costs for citizens, business and public authorities
- Step 3: Presentation of the results – for example in the introductory summary and the explanatory memorandum.



## Definition of „obligations“ and other basics

Obligations are

„Individual regulations which directly lead to a change in costs and/or time consumption for the addressees of the norm.“

(definition according to the German manual)

Assessing the compliance costs resulting from fulfilling requirements means estimating the probable financial and time burdens or reliefs of the planned new regulation.

In the process of drafting a law, only the **expected change of compliance costs** is relevant („delta“).

Besides the annual compliance costs ministries also have to calculate and explain cost which appear just one time, e.g. for implementation





# Different types of obligations

## Citizens / Businesses

- target achievements
- directives
- information obligations
- inspections / surveillance
- omission (of intended action)
- ...

## Public authorities

(implementation and fiscal action)

- processing of applications
- inspections / surveillance
- provision of information
- public administration as awarding authority (public contracts, e.g. constructions)
- ...

This results in ...

**Compliance costs**



## Example:

# Identification of obligations and number of cases: UV protection act

### 4 requirements

- acquire protective goggles
- conduct customer consulting
- staff training
- retrofit/replace old solarium equipment

### Number of cases

Some 4.000 operators with 45.000 units are affected.

Two case groups are to be expected:

**Retrofitting existing units: about 40.000 cases**

**Acquisition of new units: about 5.000 cases**



## Example: identification of „costs“ for citizens

„Winter tyre requirement“, Sec. 2.3a of the German Road Traffic Act

Car owners, which do not regularly adjust tyres according to weather conditions, now have to switch to winter tyres (WT), if they want to drive under winter conditions (but they are not obliged to switch back to summer tyres (ST) in spring.)

### ▶ Time consumption

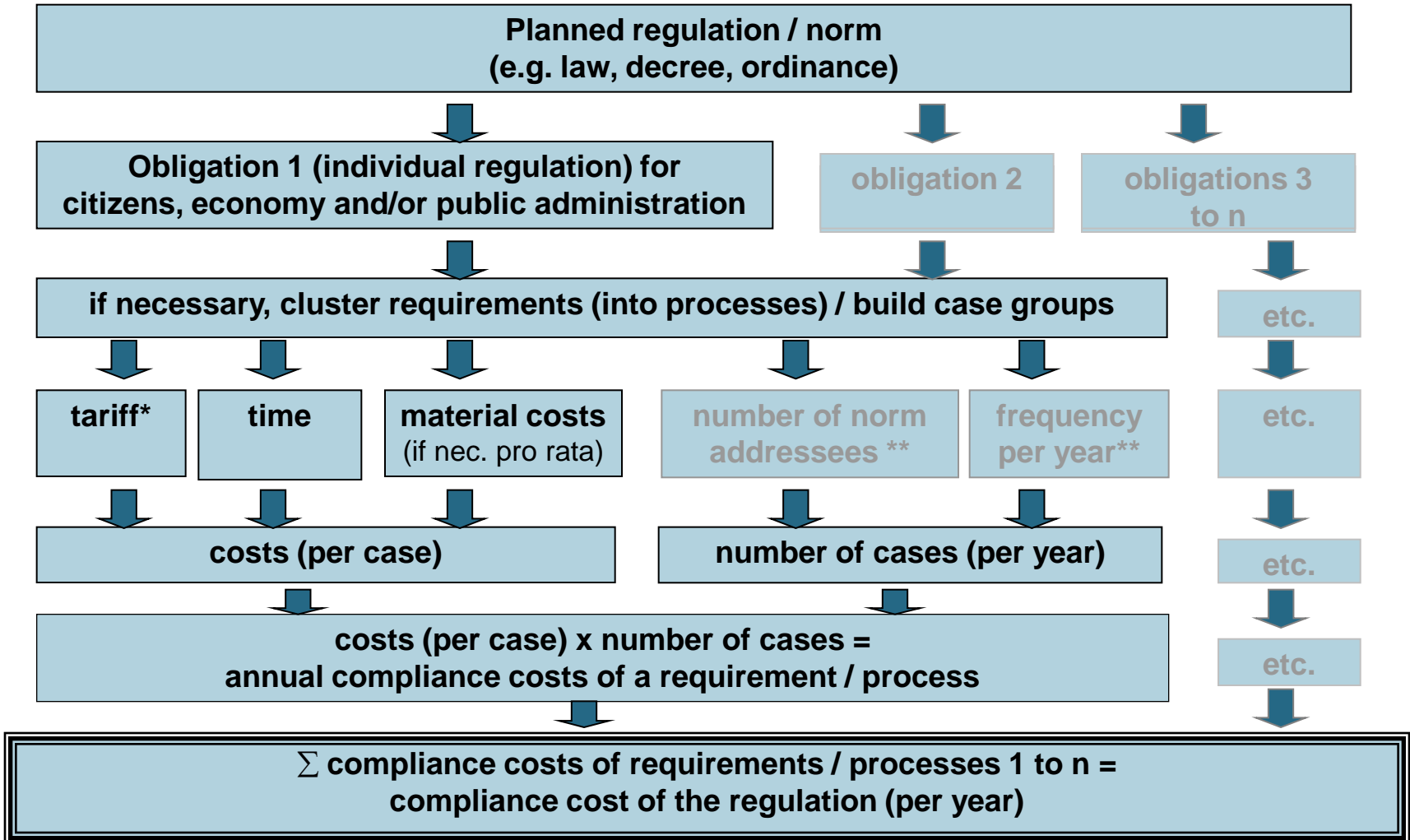
- Activities according to check list, estimated time consumption
- 33 minuten per case and year

### ▶ Material costs

- New acquisition of WT (700 €) compared to ST (600 €)
- difference („delta“) of 100 € are additional costs caused by the regulation
- New acquisition every six years => frequency =  $1/6$   
=> 17 € per case and year
- plus 2 x 20 € installation costs (garage) per case and year
- Total costs: 57 € per case and year



# Calculation scheme for compliance costs



\* tariff not applicable to citizens

\*\* if required for determining the number of cases



## Effects of the requirement to calculate the compliance costs on the Better Regulation process

- Usually not all information needed for the calculation is available at the Ministry. The Federal Statistical Office might assist.
- Missing information might also be cleared by the Ministry during the public consultation of the draft. This works as an **additional stimulus for consultation** with stakeholders, associations, authorities and experts.
- If a consultation on a specific draft is not possible, the lead ministry can prepare its calculation with general timetables (e.g. activity „collecting data“ takes 2 minutes in simple cases, and 20 minutes in complex cases). General timetables for compliance costs can be agreed upon with associations and experts in cooperation with the RCC.
- Parliament receives a **full-scale, evidence-based**, and concrete declaration of all impacts of the draft. RCC guarantees the quality of the data; everyone can scrutinize the results.
- However, the question whether these impacts are proportionate to the purpose and aims of the proposal remains at the **core of political decision making**.



## Further information

[www.bundesregierung.de/buerokratieabbau](http://www.bundesregierung.de/buerokratieabbau)

[www.destatis.de/webskm](http://www.destatis.de/webskm)

[www.nkr.bund.de](http://www.nkr.bund.de)

⇒ [www.oecd.org/regreform](http://www.oecd.org/regreform), see: EU 15-project



Bundeskanzleramt

# Backup



# The Independent Regulatory Control Council (RCC)

- Ten members nominated by the Federal Government
  - Experts and scientists with experience in legislative matters within state or social institutions as well as knowledge of economic matters
  - However, members may – when appointed and one year before – **not** belong to a legislative body or to a federal public authority or state authority, or have a permanent service with such bodies or authorities
- Appointed by Federal President for five -year term (differs from election term)
- Bound **only** by the mandate conferred by the RCC Act
- RCC is **treated like a ministry** in the interministerial coordination according to the Joint Rules of Procedures of the Federal Ministries
- RCC examines in **every legal proposal by a ministry** whether the information on compliance costs and other parts of the explanatory memorandum are comprehensive and comply with the required methodology
- When Federal Government drafts a proposal: RCC statement is attached to the cabinet draft and is **passed to Parliament** and the Bundesrat (legislative representation of state governments): the **RCC statement is publicized**





## The Regulatory Control Council's mandate in detail

- “The RCC has the task of supporting the Federal Government in implementing its measures in the field of bureaucracy reduction and better regulation. In particular, it examines the description of the compliance costs of new regulations for citizens, the business sector and public administration in terms of comprehensibility and correct methodology, ...” (sec 1 RCC Act)
- Furthermore the RCC is entitled according to the RCC Act also to examine the methodologically appropriate implementation and comprehensibility of the
  - “- comprehensible presentation of the intention of and need for the regulation,
  - consideration of other possible solutions,
  - consideration regarding the time of entry into force, time limits, and evaluation,
  - considerations of simplifications of law and administration,
  - the extent to which, in the case of the implementation of a directive or other statutory instrument of the European Union, further-reaching regulations are put in place.” (sec 4 RCC Act)
- **But:** „The examination by the National Regulatory Control Council shall not cover the intended purposes and aims of regulations.” (sec 1 RCC Act)



# Involvement of the RCC with government proposals

## I. Kick off: inter-ministerial consultation

- The lead Ministry has to involve every Ministry affected **and** the RCC before a draft is sent to cabinet

## II. Informal review of the draft or preliminaries by the RCC

- direct talks at working level between Secretariat of the RCC and the lead Ministry; changes of the draft or the explanatory memo of the draft, if agreed upon

## III. Preparation of RCC's statement

- Secretariat of the RCC drafts a statement and discusses this draft with the responsible member of the RCC

## IV. Adoption of RCC's statement

- RCC adopts statement in its plenary session and sends the statement to lead Ministry

## V. Adoption of legal proposal in Cabinet

- If indicated, lead Ministry drafts an additional statement of the cabinet regarding the statement of the RCC
- After adoption the legal proposal of the cabinet – incl. explanatory memorandum and statement(s) is sent to parliament: the draft with all statements becomes public

Duration steps I. to V.: usually up to 4 weeks