



The  
Federal Government



Nationaler  
Normenkontrollrat

**D**  **STATIS**  
Federal Statistical Office

# Guidelines

on the Identification and Presentation of Compliance Costs in  
Legislative Proposals by the Federal Government

June 2011

**BürokratieAbbau**  
Zeit für das Wesentliche

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Due to the amendment of the Act on the Establishment of the National Regulatory Control Council (NKRK) of 14 August 2006, which entered into force on 22 March 2011, the mandate of the National Regulatory Control Council (NKR) now also encompasses the examination of comprehensibility and correct methodology of the description of the compliance costs of new regulations. Section 44 and Annex 3 of the Joint Rules of Procedure of the Federal Ministries (GGO) were adapted accordingly. The Cabinet decision of 27 January 2010 regarding key points of bureaucracy reduction and better regulation (see Annex I, page 36) was implemented to a large extent through the described changes.

In addition to information obligations and their consequences, the ministries must now identify and describe the compliance costs when submitting legislative drafts.

These guidelines describe the steps required in this respect. Scientific accuracy is not necessary; it is more important to make a reasonable effort to provide the decision-makers and the general public with a realistic picture of the anticipated burdens and burden reductions from the perspective of the addressees of the regulation.

The main objective in quantifying the anticipated administrative burdens and benefits stemming from new, amended or cancelled obligations or combinations of such (processes) is to describe the concrete consequences of an obligation. For the same reason, the identification of compliance costs is normally based on the examination of an individual case.

If you have any questions regarding the methodology, please contact the Better Regulation Unit in the Federal Chancellery, the Federal Statistical Office or the Secretariat of the NKR.

### 1 Preparation of a legislative proposal

When drafting legislation, each responsible ministry should scrutinize the anticipated change in compliance costs right from the very beginning in order to select, if possible, the least burdensome regulatory option.

⇒ According to Section 2 (1) of the Act on the Establishment of the National Regulatory Control Council, compliance costs include the total measurable time expenditure and the costs incurred by citizens, business and public authorities in order to comply with federal legislation.

However, a ministry often does not have all the data at its disposal which is necessary to determine the change in compliance costs (for example the number of cases to which the change will apply) and must first identify this data. In this case, the ministry is free to select its sources. During the initial conceptual considerations, information from earlier calculations of administrative costs or compliance costs can be extracted from databases<sup>1</sup> or relevant publications.

While preparing a legislative proposal, a request for assistance can also be submitted at any time to the Federal Statistical Office (StBA). The ministry must also inform the Federal Statistical Office if the inquiry is to be treated confidentially. The Federal Statistical Office works as a neutral expert without restricting the decision-making powers of the ministries.

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Data required to determine the change in compliance costs can also be gathered by consulting **with the governments of the "Länder" and with associations**. The respective ministry can also rely on **external experts** for this purpose.

The use of external resources does not release the ministry from its obligation to responsibly determine the anticipated change in compliance costs. The objective is to present all relevant data and sources in a transparent manner before a legislative proposal is brought forward.

### 2 During inter-ministerial consultation

**At the beginning of inter-ministerial consultation**, the ministry should include in its draft (in the case of a statutory law, for example, in the introductory and the explanatory memorandum) all the information on compliance costs at its disposal at this point in time. Initial estimates are sufficient.

The phase during which ministries as well as the *Länder*, municipal umbrella organisations, experts and associations are involved, should be used to complete or specify the information at hand. With the beginning of inter-ministerial consultation, the NKR also needs to be involved.

Whether a draft is publicized and whether *Länder* and associations need to be involved depends solely on the Joint Rules of Procedure of the Federal Ministries (GGO).

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<sup>1</sup> For example WebSKM: [www.destatis.de/webskm](http://www.destatis.de/webskm)

### 3 Requirements regarding the description of compliance costs in a legislative draft

When identifying compliance costs, the anticipated possible financial and time-related burdens or burden reductions for the addressees due to the planned regulation are examined. Only the anticipated change in compliance costs is relevant in this case.

As part of its statutory mandate, the NKR verifies the comprehensibility of the presentation of compliance costs and whether it is in line with the methodical principles described in these guidelines. In particular, the following aspects are scrutinized:

- Are the anticipated compliance costs generated by obligations placed on citizens, business and public authorities quantified and described in a comprehensible manner?
- Which alternatives were examined (provided there exist any)?
- In view of the intended objective of the regulation, has the least burdensome option been selected? If not, why not?

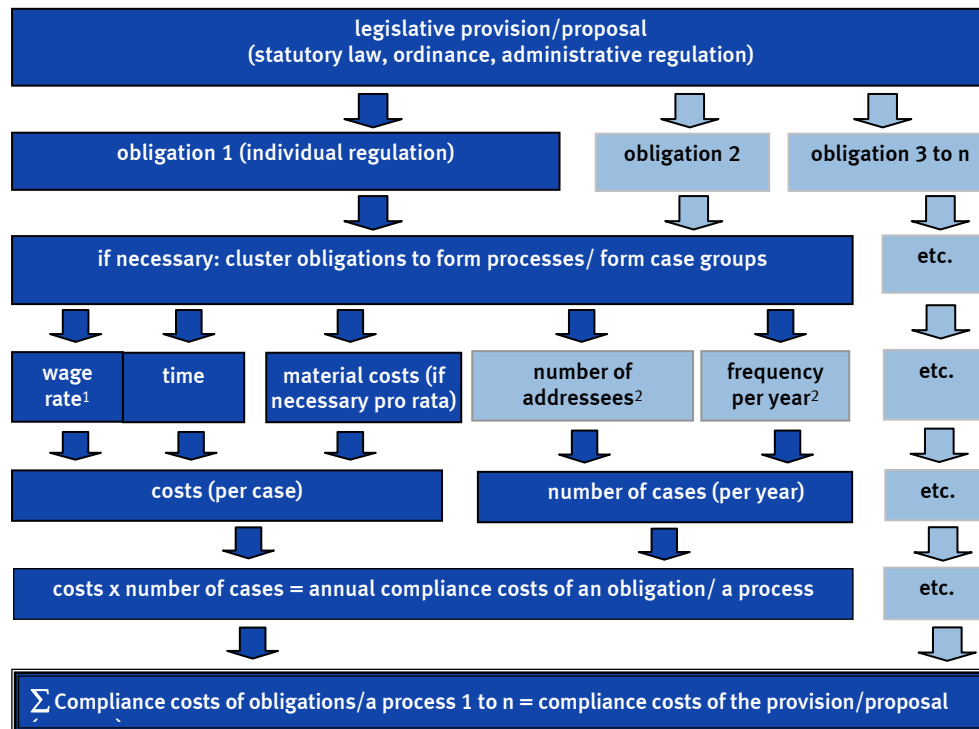
The ministries can refer to the NKR for advice at all times.

In legislative drafts submitted to the Federal Cabinet, the anticipated change in compliance costs for citizens, business and public authorities must be presented fully and in a comprehensible manner according to the Joint Rules of Procedure of the Federal Ministries (GGO). In the case of ministerial ordinances or if the NKR makes use of its additional review rights according to Section 4 (1) of the Act on the Establishment of the National Regulatory Control Council (NKRK), the same procedure shall apply. In these cases, the necessary information must be supplied.

If a ministry in a legislative draft authorizes regional or local authorities or other recognized bodies of self-administration to independently enact regulations, it should either quantify the anticipated compliance costs itself or otherwise ensure that the NKR can review the quantification.

The objectives and purpose of legislation are not subject to the review of the NKR.

#### Identification pattern



1 does not apply to citizens

2 if required to identify the number of cases

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 (see Annex III, page 40).

#### Step 1 Identifying obligations

In order to identify the change in the compliance costs induced by a legislative proposal, the obligations (individual provisions) must first be identified.

##### Definition

Obligations are individual provisions inducing direct changes in costs, time expenditure or both for its addressees.

They are the result of federal legislative acts. They oblige addressees to comply with certain objectives or orders, or to refrain from certain actions. They may also demand cooperation with third parties or to monitor and control conditions, actions, figures or types of behaviour. Information obligations form a subgroup of obligations so defined.

In this context, “direct” implies that the change in costs or time expenditure is directly connected to compliance with the particular provision. A decisive feature of obligations is that citizens, business and public authorities must observe them in order to act lawfully or, alternatively, lose possible claims to state benefits and services (e.g. applications).

When identifying obligations, it must be taken into account that the lawmaker at times only stipulates targets or limit values in addition to orders or bans, or aims at a change in behaviour through state aid. Such individual measures are also regarded as obligations since they directly induce a change in costs or time expenditure for their addressees.

##### Examples of compliance with obligations:

- Maintenance of machinery (e.g. “before commissioning”, “annually” or “after every 10,000 operating hours”)
- Decommissioning and replacement of old machinery which no longer complies with legal standards due to new thresholds
- Organizational and building measures to implement an obligation of setting a minimum distance of a radiation machine to its operator; corresponding monitoring obligations of the relevant supervisory authority
- Provision of protective equipment, e.g. noise protection earphones or protective goggles
- Participation in training courses in order to attain or maintain a required qualification level, and documentary evidence of participation in these courses
- Costs for identifying and processing information (e.g. designations, applications, documentation, etc.)

Assuming that addressees **comply with obligations or processes in different ways**, so-called **case groups** can be formed if major differences are expected to show. The compliance costs for each case group must be separately identified and described. It is irrelevant whether these differences arise because the addressees resorted to different approaches or because the underlying facts differ.



### III Identification Pattern and Procedure

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#### Example of the formation of case groups (fictitious):

Operators of certain industrial plants are obliged to comply with new obligations and stricter emission standards. It can be assumed that 80% of the 1000 affected companies will simply equip their existing plants with new filter systems, while the remaining 20% will have to completely replace their old plants by new plants in order to comply with the stricter thresholds. It is assumed that the costs of converting existing plants are considerably lower than the costs for replacing old plants by new ones. Two case groups can therefore be formed to identify the compliance costs:

Case group a) Conversion of existing plants (800 companies)

Case group b) Replacement of old plants by new plants (200 companies)

Several obligations which in practice are complied with in one context can be combined to form a **process**. Such processes can, for example, be based on the subject-matter or the viewpoint of the addressees of the obligations under scrutiny.

#### Examples of processes:

1. In order to identify the compliance costs for the UV Protection Ordinance, the objective of which is to protect solarium users against the harmful effects of artificial UV radiation, the proposed regulation was structured according to the **activities** which the addressees of the ordinance, i.e. business, needed to perform:

- Retrofitting/replacement of old solaria
- Purchase of protective goggles
- Providing advice
- Staff training

2. As part of the compliance cost project “Company officers”, the legal provisions were examined **from the viewpoint of the addressees** in order to identify the processes from which compliance costs could be derived. To this end, processes were broken down further in order to easier identify the compliance costs.

- Procedure for appointing a company officer
- Material support by the company
  - Provision of assistants, offices, etc.
  - Granting time off for training
  - Salary for the officer
- Participation by the officer in the company’s internal processes

It is recommended that the identified obligations or processes of such are listed according to the addressees of every obligation or process. This makes it easier to determine the compliance costs per addressee.

Subsequently, only the compliance costs for the individual process are identified. The compliance costs for the individual obligations comprised in the process are no longer identified.

Therefore, the individual obligations need to be clearly assigned to a process.

### III Identification Pattern and Procedure

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#### **Information obligations as special form of obligations**

Compliance costs include administrative costs which are incurred through compliance with information obligations. Administrative costs for the addressee “business” must be displayed separately from other obligations. Information obligations are all obligations according to which data and other information has to be procured and kept available for authorities or third parties, or communicated to them<sup>2</sup>.

They include, i.a., obligations to complete applications and forms, to participate in official surveys, or to provide supporting evidence and documentation (information, reporting, publication, registration, approval, etc.). Administrative costs incurred through information obligations must always be presented for every single obligation, even if it forms part of a process.

#### **Examples of information obligations:**

- Energy labelling of domestic appliances
- Price tagging
- Statutory announcement obligations
- Attachment of General Terms and Conditions
- Application for permits (e.g. operating permits, permit to exercise a specific trade, recognition of professional qualifications)
- Registration of a business

#### **Summary of step 1**

As the result of step 1, a list displaying all obligations contained in a legislative proposal should be made available for further identification of the anticipated change in compliance costs.

The list should show:

- Which obligations trigger compliance costs for which addressees
- Which obligations form part of which (sub)process (combined identification of compliance costs)
- Which obligations or processes have been combined to form case groups, for which the compliance costs are separately identified
- Which obligations are information obligations of business

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<sup>2</sup> According to the definition in Section 2 (2) Sentence 2 of the Act on the Establishment of the National Regulatory Control Council

#### Step 2 Identifying the change in compliance costs

In step 2, the anticipated changes in compliance costs induced by the proposed regulation are identified separately for citizens, business and public authorities.

⇒ The question of whether the change in the number of cases or the change in costs per case is determined first depends on the obligations, processes or case groups under scrutiny.

**General principle:** the compliance costs are identified separately for every obligation, process or case group.

However, especially in the case of complex provisions containing numerous obligations or processes, it may become obvious after an initial check that some of them will only have a very minor impact. In this case, it may be possible to waive the identification and presentation of the change in compliance costs after consulting with the NKR. Nevertheless, the reasons as to why the change in compliance costs can be ignored (for example “the provision “abc” will affect a very low number of cases with a foreseeably low burden per individual case.”) must be expressly stated.

##### Step 2.1 Identification of the number of cases per obligation or process

Obligations must be complied with either periodically or on an event-driven basis. In the case of **periodically complied obligations** (for example annual maintenance of plants), the frequency shows how many times a provision must be observed by every affected entity per year. The frequency multiplied by the number of affected entities renders the number of cases per year.

##### Examples of annual frequency for periodic obligations:

- Once a year: Frequency = 1
- Half-yearly: Frequency = 2
- Monthly: Frequency = 12
- Every 5 years: Frequency = 0.2

In the case of **event-driven obligations**, the number of annual cases is identified without first determining the frequency and number of affected entities. For example, in the case of obligations arising with regard to applications (e.g. application for support under the Federal Training Assistance Act - BAFöG), the expected number of applications per year should be applied as a basis for calculation; an appropriate average number may be applied in case of fluctuations.

##### Step 2.2 Identification of the change in compliance costs per case

In order to determine the anticipated change in costs per case, one needs to identify the **main activities** which are necessary to ensure compliance with an obligation or a process in an individual case. The anticipated changes in **time expenditure, personnel costs and material costs** are identified for these activities.

### III Identification Pattern and Procedure

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The extent of the compliance costs to be identified depends on whether obligations are newly introduced, are amended or are cancelled and is to be identified as follows:

If obligations are newly introduced, the anticipated compliance costs must be displayed for each case in total.

If an existing obligation is amended, only the change in compliance costs needs to be identified. This may be achieved by calculating the difference between the compliance costs according to the old and new obligation or process. However, it will generally be easier, but just as effective, to identify only the anticipated actual changes in time expenditure, personnel costs and material costs. For this purpose, the change in costs induced by the amendment can be identified.

In cases in which an obligation is cancelled, the compliance costs for this regulation – if not already done – must be identified and displayed as a reduction.

**Adjustment costs**, which are only incurred once by the addressee if a provision is introduced or amended, are displayed separately. An example is the one-time change of software due to legal amendments: this change will normally not affect future updates of the software – for example for adaptation to hardware or operating systems that have to be renewed at regular intervals. However, costs which foreseeably reoccur after a period of several years must be displayed as ongoing compliance costs.

When identifying compliance costs, it must also be verified whether the anticipated costs are so-called **business-as-usual costs**. This is the case whenever an obligation does not lead to any measurable change in behaviour or costs for the addressees. It must then be assumed that the new regulation will not result in any additional compliance costs or any reduction. If the obligation or process only leads to a change in behaviour among some of the addressees, the change in compliance costs may only be identified for this group. In these cases it is recommended that two case groups are formed and that reasons as to why a change in the compliance costs is expected or not expected are stated. In order to ensure transparency, it is recommended that clear reasons are given for the total anticipated costs and the amount of the excluded business-as-usual costs.

The term “compliance costs” does not include taxes, social security contributions and costs arising according to Article 104a (3) and (4) of the German Basic Law (GG). They must be presented independently of these guidelines according to the Joint Rules of Procedure of the Federal Ministries (GGO). Indirect effects such as imputed costs (e.g. difference between lost hypothetical profits from capital which could have been used more profitably without a legal obligation) and other charges (e.g. countervailing charges) are also not regarded as compliance costs. Fees are displayed in the introductory summary and in the explanatory memorandum under letter F (Other Costs).

### III Identification Pattern and Procedure

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#### Step 2.3 Identifying the total change in compliance costs

The compliance costs for an obligation, a process or a case group are calculated by multiplying the number of cases by the costs per case. The total compliance costs of a legislative proposal consist of the total costs of all obligations, processes or case groups contained in the proposal. The necessary calculations must be performed separately for each group of addressees (citizens, business, public authorities) on an annual basis (exception: one-time adjustment costs).

In order to avoid false accuracies, figures must be correctly rounded once the calculations have been completed.

#### Examples of rounding:

Arithmetically:

123,456,789.01 euro per annum ⇒ stated figure: 123 million euro per annum

Arithmetically:

472,033 hours per annum ⇒ stated figure: 472,000 hours per annum

The calculated figures are normally validated by the Federal Statistical Office through remeasurements two years after the legislative act has entered into force.

Since specific identification of the compliance costs may vary depending on the addressee, the general procedure just described is laid out in detail in the following for citizens (page 14 ff.), business (see page 19 ff.) and public authorities (see page 28 ff.). If no separate explanations are given, the general remarks remain applicable.

## Citizens: Identifying the compliance costs for citizens

### Step 2.1 Identifying the number of cases

**General principle:** if an obligation or a process must be complied with **periodically**, the annual number of cases is calculated by multiplying the annual frequency of compliance per affected person by the total number of affected persons. If the obligation or the process must be complied with on an **event-driven basis** (e.g. inspection and acceptance of a chimney by a chimney sweep after installation), only the number of anticipated cases per year is used as a basis. An appropriate average figure may be applied in case of fluctuations.

#### Example of the identification of the number of cases:

Section 2 (3a) of the Road Traffic Regulations (StVO) stipulates that, in the case of black ice, hard-packed snow, slush, ice or frost, a vehicle may only be used if it is fitted with tyres fulfilling certain criteria (M+S tyres). This obligation directly induces compliance costs for owners of private vehicles: if the vehicles shall be driven in the above-mentioned weather conditions, they must be fitted with M+S tyres (purchase and fitting costs).

In the case of an obligation stipulating the use of winter tyres in certain weather conditions, the realities of everyday life mean that vehicle owners do not just change to winter tyres once, but revert to summer tyres in spring. The costs for this second change are directly related to the provision and must therefore be taken into account when identifying and presenting the compliance costs.

In practice, out of a total of 56 million registered vehicles, 70% (39.2 million vehicles) have their tyres changed in autumn and spring due to different reasons (recommendations by organizations such as the German Automobile Club, economic considerations such as wear and tear, fuel consumption). A further 20% (11.2 million vehicles) are driven all-year round with all-weather tyres or are not driven at all during wintry road conditions. The remaining 5.6 million vehicles, which have only used summer tyres to date, therefore represent the calculation basis. Their owners will have to purchase M+S tyres for the first time and change them regularly in the following years (frequency = 2, number of vehicles: 5.6 million, number of cases = 11.2 million vehicles).

It is assumed here that the number of cases relates solely to private vehicles since most vehicles owned by businesses and public authorities are already fitted with winter tyres.

**General principle:** costs which, on account of obligations or processes to be examined, are only incurred once by citizens when the regulation is introduced, are regarded as one-time adjustment costs and must be displayed separately.

**Example** of the identification of the number of cases for an obligation inducing one-time adjustment costs (**fictitious**):

**Case group 1 (one-time adjustment costs)**

Due to the introduction of the compulsory installation of a smoke alarm system in privately-owned one-family houses, every owner of a house must install an approved smoke detector. The number of cases for these one-time adjustment costs – 11.3 million – equals the current number of houses. However, since studies ([www.rauchmelder-lebensretter.de](http://www.rauchmelder-lebensretter.de)) have revealed that around 30% of houses are already fitted with a smoke detector, the number of cases must be reduced to 7.9 million.

**Case group 2 (annual compliance costs)**

The number of cases for the annual compliance costs corresponds to the number of new houses built every year which must now also be fitted with smoke detectors. It can be assumed that around 30% of the houses would be fitted with smoke detectors anyway, even without the legal obligation. The number of new houses built per year is 70,000 at present. Less the abovementioned 30%, this results in 49,000 cases per annum.

If existing regulations are amended, case numbers may also be retrieved from existing cost estimates and explanatory memoranda of existing legislation. Before this information is used, it should be updated, if necessary.

**Step 2.2 Identifying the compliance costs per case**

When identifying compliance costs of citizens, the following factors are considered in order to identify the costs per case:

- 2.2.1 Time expenditure (page 15),
- 2.2.2 Material costs (page 17).

**2.2.1 Identifying time expenditure of citizens**

In general, it is necessary to first identify which **activities** change, newly arise or cease when complying with an obligation or a process.

The following checklist containing possible activities of citizens for compliance with an obligation or a process can be used as an example:

**Checklist:****Activities of citizens complying with obligations or processes**

- Familiarizing oneself with the obligation
- Obtaining advice (e.g. helpdesks, local administration, lawyer)
- Gathering and compiling data and information (e.g. printed forms, documentary evidence, photos)
- Processing information and data (including calculations)
- Filling in forms
- Drafting correspondence (e.g. letters, faxes, e-mails)
- Transmitting information or data to competent authorities
- Making payments (e.g. when settling an invoice by means of a bank transfer: completing a transfer form or arranging an online transfer)
- Photocopying, filing and storing documents
- Cooperating in an inspection by public, devolved or approved authorities (e.g. public health officer, technical expertise, general safety inspection for automobiles)
- Purchasing material
- Personally providing certain services or commissioning them to third parties
- Verifying the implementation of obligations
- Additionally: time expenditure for travelling and waiting (e.g. at an agency/public authority – if necessary as a flat-rate)

**Example:** in order to comply with the obligations of the above-mentioned Section 2 (3a) of the Road Traffic Regulations (StVO) (obligation to fit M+S tyres), the following activities must be performed:

Activities according to checklist	Concrete activity
Familiarizing oneself with the provision	Reading the StVO and/or relevant report
Obtaining material	Purchasing suitable M+S tyres (Segment 1)
Personally performing certain services or commissioning third parties	Personally changing and storing tyres/wheels or having tyres/wheels changed by a garage (incl. travel to and from garage, waiting time) (Segment 2)
Making payments	Paying in cash or transferring invoice amount

Other activities can be added to the checklist. It is possible to develop special checklists (e.g. for certain legal areas) which can be used in future for other identifications. It is recommended to involve the National Regulatory Control Council and the Federal Statistical Office at an early stage in such cases.

After identifying the anticipated activities, the **time expenditure** for the particular activities is determined by the ministry responsible for the obligation. For this purpose, it is possible to use the results of existing cost calculations (e.g. explanatory memoranda



of earlier regulations or the WebSKM database of the Federal Statistical Office) and the table (in the Annex) containing the current values for compliance with information obligations by citizens<sup>3</sup> (see Annex IV, page 41). The table contains empirically determined average figures for simple, moderately difficult and complex information obligations. The plausibility of these average values for the specific case at hand must be critically examined.

**Example:** Regarding the application for a certain permit, a time expenditure of 20 minutes per case and a case number of 100,000 applications per annum can be assumed according to the WebSKM database of the Federal Statistical Office. A (fictitious) new regulation reduces the time expenditure for the activity “compiling data” in this application from 10 to 5 minutes per case. Only the difference in time expenditure between the old and the new regulation needs to be determined to identify the compliance costs.

Activities according to WebSKM	Previous time expenditure according to WebSKM (min.)	New time expenditure (min.)	Change	Number of cases
1. Compiling data	10	5	- 5	
2. Filling in forms	4	4	--	
3. Making payments	1	1	--	
<b>Total time expenditure per case</b>	<b>15</b>	<b>10</b>	<b>- 5</b>	<b>100,000</b>
Travelling time to authority	5	5	--	
<b>Compliance costs for change of obligation</b>			<b>- 8,333 hours<sup>1</sup></b>	

<sup>1</sup> The total number of hours saved are calculated from  $(5 \cdot 100,000) / 60$

The time expenditure can also be estimated without breaking down compliance with the provision or the process into separate activities. This is suitable if the obligations or processes in question are not very complex or contain few regulations, or if the total time expenditure can be determined on the basis of validated empirical data or clear-cut information from third parties (e.g. consumer protection organizations).

### 2.2.2 Identifying material and purchase costs

In addition to time expenditure, material costs and other charges can also be incurred when complying with obligations or processes.

These include, for example:

- Costs of involving third parties (services of craftsmen)
- Maintenance costs
- Costs of purchasing materials or of retrofitting equipment or plants

Multiplying time expenditure and material costs per case by the number of cases yields the compliance costs for an obligation or a process or for case groups.

<sup>3</sup> As soon as the Federal Statistical Office has enough empirical data at its disposal, the time expenditure table for compliance with information obligations is replaced by a time expenditure table for the checklist of activities to determine the compliance costs.

**Example** relating to Section 2 (3a) of the Road Traffic Regulations (**fictitious** results):

Activities according to checklist	Time expenditure	
	Segment 1	Segment 2
Familiarizing oneself with the obligation (acc. to time expenditure table; low complexity)	2 min.	2 min.
Personally performing service or commissioning third parties (own estimate)	60 min.	30 min.
Making payment (acc. to time expenditure table; low complexity)	1 min.	1 min.
<b>Total per case</b>	<b>63 min.</b>	<b>33 min.</b>
Number of cases (5.6 m. private cars x twice a year): 11.2 m.; 40% segment 1; 60% segment 2	4.48	6.72
<b>Total hours in m.</b>	<b>4.704</b>	<b>3.696</b>

Cost type	Annual material costs	
	Segment 1	Segment 2
Installation costs 20 euro each (in case a garage is commissioned)		
6.72 m. vehicles x price 20 euro		134.4 m. euro
New purchase of winter tyres (700 euro) compared with price of summer tyres (600 euro)		
5.6 m. private vehicles x frequency 0.17 (every 6 years) x additional costs 100 euro	38 m. euro	57 m. euro

Compliance costs	Segment 1	Segment 2
Annual time expenditure	4.704 m. hours	3.696 m. hours
Annual material costs	38 m. euro	191.4 m. euro
<b>Total annual time expenditure</b>	<b>8.4 m. hours</b>	
<b>Total annual material costs</b>	<b>229.4 m. Euro</b>	

Basis for the calculation is the number of people who have to date driven summer tyres all-year round. The time expenditure table for citizens (cf. Appendix IV, page 41) and additional estimates (because either empirical values differ from the time expenditure table or no time values are available for the activity) were used.

Continuous material costs: assumed installation costs of 20 euro each per change and additional costs of winter tyres compared to summer tyres (10% to 20%, here an average additional price of 100 euro per set of tyres). Time expenditure is the same as for the purchase of summer tyres (replacement investment) and is not taken into account. It is assumed that new winter tyres have to be bought every 6 years (frequency 0.17).

### Step 2.3 Identifying the total compliance costs

The compliance costs of the legislative proposal for citizens is the result of the total costs of all obligations or processes of the proposal.

## Business: identifying the compliance costs

The Federal Government committed itself to, compared to 2006, reduce the costs arising from information obligations for business by a net total of 25% until the end of 2011. In order to verify whether this target is attained, it is necessary to separately identify and display the costs arising from information obligations. Compliance costs include administrative costs resulting from information obligations that are stipulated in legislative proposals. However, they need to be reported separately for the addressee “business”.

In order to describe the facts as realistically as possible, the affected industrial sectors or groups of companies should also be specified in more detail. Above all, the extent to which small and medium-sized enterprises<sup>4</sup> are particularly affected must be examined (cf. Section 1 (3) of the Act on the Establishment of the National Regulatory Control Council).

### Step 2.1 Identification of the number of cases

The number of cases will be determined as follows:

**General principle:** if a provision or a process must be complied with **periodically**, the annual number of cases is calculated by multiplying the annual frequency of compliance per affected party by the total of affected parties. If the provision or the process has to be complied with on an **event-driven basis** (e.g. inspection and acceptance of a filter system by the competent authority after installation), only the number of anticipated cases per annum is used as a basis. An appropriate average figure may be applied in case of fluctuations. Whether it is cheaper to first determine the number of cases or the costs per case depends on the individual case.

**General principle:** if different approaches of the addressees to comply with the obligation or process in question can be expected, separate case groups for significant differences should be formed, and corresponding case numbers should be identified.

#### Example of case groups:

In order to comply with the maximum limits for radiation intensity laid down in § 3 (1) of the UV Protection Ordinance (UVSV), commercial operators of UV solaria are obliged to retrofit old equipment or replace it with new units. In accordance with Section 4 (1) and 5 (1) of the UVSV, these operators must also ensure that trained staff is present during opening hours. The corresponding training of employees calls for a one-time training of the existing staff and training of new employees.

Around 4,000 commercial operators throughout Germany with approximately 45,000 of these machines are affected by the one-time replacement and retrofitting obligation. It is assumed that 5,000 units will have to be replaced completely, due to their age, by new ones (case group 1) and that up to 40,000 machines will have to be retrofitted (case group 2).

A special procedure may apply to information obligations where the number of annual cases does not exceed 10,000. In such a case, the burden can be determined using a simplified procedure. For this purpose, the information obligations are assigned, depending on their type (e.g. permit, certification, labelling obligation), to a cost category (see Annex Va: “Simplified procedure and cost categories”, page 42). In order to identify

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<sup>4</sup> The following definition of small and medium-sized enterprises (SME) shall apply: SME are companies with fewer than 250 employees and a maximum annual turnover of 50 million euro or a maximum balance sheet total of 43 million euro (Source: <http://ec.europa.eu>).

the burden, the number of cases is then multiplied by the cost factor of the cost category. Irrespective of the burden value calculated using the simplified procedure, the administrative costs should be identified according to these guidelines if the responsible ministry or the NKR deem this necessary.

### Step 2.2 Identifying the compliance costs per case

When identifying the compliance costs for business, the following cost types will in general be relevant:

2.2.1 Personnel costs (page 20 ff.),

2.2.2 Material costs (page 25 ff.)

#### 2.2.1 Personnel costs

It is necessary to identify the personnel costs per case that are directly incurred by the affected companies through compliance with the obligation or process. For this purpose, the anticipated time expenditure is multiplied by the particular wage rate.

Two methods are possible to identify the personnel costs:

- a) Identification of the time expenditure based on activities (see page 20 ff.)
- b) In the case of simple compliance actions or validated empirical data: identification of the total time expenditure without breaking it down to individual activities (see page 23 f.).

The choice of method depends on the individual case.

#### a) Identification of the time expenditure based on activities

In order to identify the time expenditure required to comply with an obligation or process, the person responsible should consider the specific procedures, for example, in a specific company: first of all, the anticipated activities should be identified. In the case of information obligations, the list of standard activities can be applied for this purpose. For all other obligations, the list was extended to include other possible activities. The extended checklist contains activities which may normally occur when complying with information obligations or other obligations.

The anticipated time expenditure (in minutes) is then assigned to the activities. This individual case-based approach is primarily recommended when the obligations or processes call for several work steps.

If it is not possible to identify any specific data on the time expenditure for information obligations, the time expenditure table for business can be applied<sup>5</sup> (see Annex Vb, page 43 f.).

The time expenditure figures need to be multiplied by the corresponding wage rates. The wage rates – classified according to the qualification level – are displayed in the applicable labour cost table (Annex VI, page 45).

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<sup>5</sup> As soon as the Federal Statistical Office has enough empirical data, the time expenditure table for compliance with information obligations will be replaced by a time expenditure table for the (extended) activity checklist relating to identification of the compliance costs.

<b>Checklist Part A:</b>		
<b>Activities for compliance with information obligations of business</b>		
	<b>General standard activity</b>	<b>Explanation:</b>
I.	<b>Familiarizing oneself</b> with the information obligation	Are separate costs incurred because the information obligation is regularly changed or is only rarely used?
II.	<b>Procuring data</b>	Which costs are incurred through procuring necessary information and data?
III.	<b>Filling in forms, labelling, classifying</b>	Which costs are incurred, for example, through filling in an application form?
IV.	<b>Performing calculations</b>	Which calculations, evaluations, counts have to be performed?
V.	<b>Checking data and inputs</b>	Are costs incurred through control measures?
VI.	<b>Correcting errors</b>	Are costs incurred through corrective measures?
VII.	<b>Processing data</b>	Which costs are incurred through the processing of data?
VIII.	<b>Transmitting and publishing data</b>	Which costs are incurred through transmitting data and/or publishing data or information?
IX.	<b>Internal meetings</b>	Which costs are incurred through necessary internal meetings?
X.	<b>External meetings</b>	Which costs are incurred through necessary external meetings, e.g. with tax consultants?
XI.	<b>Payment</b>	Are costs incurred, e.g. when completing a bank transfer form?
XII.	<b>Photocopying, filing, distribution</b>	Are costs incurred, e.g. for photocopying activities or filing work?
XIII.	<b>Cooperating in an audit by public authorities</b>	Which costs are triggered, e.g. by company audits?
XIV.	<b>Corrections</b> which have to be made as a result of the public audit	Are costs incurred through corrections and revision of data?
XV.	<b>Procuring additional information</b>	Are costs incurred through procuring additional information?
XVI.	<b>Training courses</b>	Are costs incurred because compliance with an information obligation necessitates training?

<b>Checklist Part B:</b> <b>Other possible activities for obligations other than information obligations</b>	
<b>Activity</b>	<b>Explanation</b>
Procuring goods and services	Do the costs change when taking part in tenders, placing orders, accepting goods, etc.?
Procuring services and/or hiring additional staff	
Supplying own services	Do costs change, e.g. when installing machines, etc.?
Adjustment of internal processes	Are costs incurred when analyzing the status quo, defining the target process, making corresponding adjustments to IT, leaflets, documents, etc. on account of the new obligation?
Supervisory measures	Do the costs change, e.g. when verifying whether the obligation was carried out correctly or thresholds were observed?
Storage, inventory management, production	Do the costs change, e.g. for the necessary management of inventories or in production?

The following aspects must be taken into account when working with the two checklists:

Rarely all of the activities mentioned above are relevant in practice. If, for example, a monthly report is sent to social security providers, no initial training costs are incurred, since a certain routine can be assumed to exist in the company. The baseline measurement of the administrative costs for business revealed, for example, that only four to six activities are relevant for the majority of information obligations.

A number of activities are performed automatically if suitable IT is in use. While automatic processing initially does not lead to time expenditure, the provision and maintenance of IT due to a change in obligations can lead to additional material and personnel costs.

In some cases it may be appropriate to add special activities to the above checklist. If special lists are developed and used in future for other estimates, it is recommended to involve the NKR and the Federal Statistical Office at an early stage.

**Example:** Identification of the personnel costs induced by an information obligation due quarterly, broken down to individual activities (here: standard activities) and based on the time expenditure table for business.

Activity	Time expenditure per case (in min.)	Wage rate per hour <sup>6</sup> (in euro)	Calculation	Annual personnel costs (in euro)
Ongoing costs per case				
II. Procuring data	15	28.5	$15/60 \times 28.5 = 7.1$	
III. Completing forms	7	28.5	$7/60 \times 28.5 = 3.3$	
IV. Performing calculations	20	28.5	$20/60 \times 28.5 = 9.5$	
VIII. Transmitting data	2	28.5	$2/60 \times 28.5 = 1$	
XII. Copying, archiving, distributing	2	19.3	$2/60 \times 19.3 = 1$	
<b>Total (personnel costs in euro per case)</b>			<b>21.9</b>	
<b>Total (personnel costs per annum)</b>				<b>2,277,600</b>
Number of affected companies x frequency x costs per case = 26,000 x 4 x 21.9 = 2,277,600 euro				

#### b) Identifying total time expenditure (without breaking it down to individual activities)

The personnel costs can also be identified without breaking down compliance with the obligation or process to individual activities. The total time expenditure thus identified is multiplied by the corresponding labour costs according to the latest Labour Cost Table of the Federal Statistical Office (see Annex VI, page 45).

Time shares in full time equivalent can also be identified: if, for example, a half-post is required to comply with an obligation, the annual labour costs of a full post must be multiplied by the factor 0.5. A division into individual activities is not required in these cases. The number of cases is then replaced by the number of affected companies.

This procedure is appropriate whenever the obligations or processes are not very complex or contain few regulations, or if the total time expenditure can be determined on the basis of validated empirical data.

<sup>6</sup> Sector-specific or average, and dependent on the qualification level, cf. Time expenditure table in Appendix Vb, page 43, and the Labour Cost Table of the Federal Statistical Office in Appendix VI, page 45.

**Example:** In accordance with the provisions of the UV Protection Ordinance, employees must be trained. This leads to one-time costs for the first “wave” of training courses and ongoing costs for annually required training courses. 19 euro per hour are taken as basis for the labour costs of the employees to be trained, while the training takes 12 hours (720 minutes). 45,000 employees are trained during the first year. It is assumed that 4,500 new employees, i.e. 10% of staff, are newly recruited and trained every year.

Activity: training				Personnel costs (in euro)	
Qualification of employees	Time expenditure per case (in min.)	Hourly wage rate <sup>7</sup> (in euro)	Calculation	Annual	One-time
Ongoing costs per case					
Low qualification	720	19	$720/60 \times 19 = 228$		
Number of new employees per annum x frequency x costs per case = $4500 \times 1 \times 228 = 1,026,000$ euro				1,026,000	
One-time costs per case					
Low qualification	720	19	$720/60 \times 19 = 228$		
Number of existing employees to receive one-off training x costs per case = $45,000 \times 228 = 10,260,000$ euro					10,260,000
<b>Compliance costs</b>				<b>1,026,000</b>	<b>10,260,000</b>

**Example (fictitious):** Identification of the average annual personnel costs

Personnel costs			Personnel costs (in euro)	
Personnel costs	Labour costs/year	Calculation	Annual	One-time
Ongoing costs per annum				
0.25 full-time posts	46,800	$0.25 \times 46,800 = 11,700$		
Number of companies x costs per annum = $4000 \times 11,700 = 46,800,000$			46,800,000	
One-time costs per case				
0.1 full-time posts	64,000	$0.1 \times 64,000 = 6400$		
Number of companies x costs per case = $4000 \times 6400 = 25,600,000$				25,600,000
<b>Compliance costs</b>			<b>46,800,000</b>	<b>25,600,000</b>

<sup>7</sup> Sector-specific or average, cf. Labour Cost Table of the Federal Statistical Office



### 2.2.2. Material costs

It is necessary to identify the material and purchase costs (in short: material costs) which are directly incurred by the affected companies due to compliance with an obligation or a process. They also include expenses for external services (e.g. training costs, expense allowances, costs of audits, etc.).

Imputed costs (e.g. lost profit for capital that could have been used otherwise) are normally not taken into account. When identifying the compliance costs, only the costs actually expected to incur are considered.

Two methods can be applied to identify the material costs:

- a) Identification of the material costs per case or
- b) Identification of the average annual material costs

The selection of the method depends on the obligation under scrutiny.

#### a) Identification of material costs per case

This procedure is recommended in cases in which the material costs can be clearly assigned to each case or the work processes are broken down into individual activities and the material costs can be directly assigned to the individual activities.

#### b) Identification of average annual material costs

In the case of obligations which lead to a permanent activity in the company, the average annual material costs can also be used as a basis.

**One-time material costs** which occur due to the change to a new procedure, the set-up of a workplace etc. are identified as adjustment costs. An example is the one-time exchange of software due to changed legal provisions. These one-time costs are not assigned to the ongoing material costs or the material costs per case, but are displayed separately.

#### Example:

Material costs incurred by a company due to the introduction of an IT-process (fictitious), here: identification of the average annual material costs per company

		Material costs (in euro)	
Type of cost	Average costs per company	Annual	One-time
Material costs (per annum)	Software licences and costs for IT-support = 800 euro		
Number of affected companies: 4,000 Calculation: 4000 x 800 euro = 3,200,000 euro		3,200,000	
Material costs (one-time)	Purchase of new hardware and costs for initial installation = 2500 euro		
Number of affected companies: 4,000 Calculation: 4,000 x 2,500 euro = 10,000,000 euro			10,000,000
<b>Total:</b>		<b>3,200,000</b>	<b>10,000,000</b>

**Excursus: Replacement investments**

If, for example, a machine or a system has to be replaced due to a change in law, it can be assumed that this investment would become necessary anyway within a given period of time due to economic reasons.

The compliance costs arising in these cases represent, at least partially, an investment which sooner or later would have become necessary. The usual assumption is that half of the investments would have been made anyway. In case of replacement investments, 50% of the purchase costs are therefore regarded as compliance costs, while the remaining costs are considered to be so-called business-as-usual costs, unless a different share of business-as-usual costs cannot be substantiated.

**Example:** In accordance with the provisions of the UV Protection Ordinance, operators of UV solaria are obliged to retrofit old units or replace them with new machines. Material costs are incurred if new machines are purchased (Case group 1) or old ones are retrofitted (Case group 2).

**Case group 1**

A new unit costs about 15,000 euro (assumption). 7,500 units are purchased. This leads to one-time material costs of 112.5 million euro. The old machines, which have to be replaced in solariums, would have been replaced anyway by the companies at the end of their technical or economic life cycle. The substantive compliance costs are therefore not calculated on the basis of the full purchase price amounting to 112.5 million euro. Instead, only 50% of the full purchase price, i.e. 56 million euro, are taken as basis.

**Case group 2**

Up to 40,000 machines are retrofitted. The costs amount to 750 euro per unit. This induces one-time material costs of up to 30 million euro.

**Step 2.3 Identifying the total compliance costs**

After the previous steps, all data should be available at least in form of rough estimates. The costs per case plus the pro-rata material costs multiplied by the number of cases yield the compliance costs for an obligation or a process. The compliance costs of the proposed regulation for business comprise the total costs of all obligations or processes affecting business contained in the legislative proposal.

**Example:** Identification and presentation of the compliance costs for business due to a legislative proposal (fictitious)

Obligation/ information obligation		Annual personnel costs	One-time personnel cost	Annual material costs	One-time material costs
Obligations 1	Case group				30,000,000
	Case group				26,250,000
Obligation 2		1,026,000	10,260,000		
Obligation 3				3,200,000	10,000,000
Information obligation 1		2,277,600			
<b>Total</b>		<b>3,303,600</b>	<b>10,260,000</b>	<b>3,200,000</b>	<b>66,250,000</b>
<b>Of which administrative costs</b>		<b>2,277,600</b>			

Annual compliance costs for business:

6.5 million euro p.a., of which 2.3 million euro p.a. administrative costs

One-time compliance costs: 76.5 million euro

## Public authorities: identification of compliance costs

The compliance costs for public authorities include implementation costs and the costs for fiscal actions by public authorities as addressees of legislative provisions (e.g. as owners of vehicles or as building contractors).

Compliance costs are primarily incurred by public authorities through processing of applications or performing supervisory tasks, and through providing information and material (e.g. application forms) to citizens, business or other areas of public administration.

Revenue and budgetary expenditure shown in legislative drafts under letter D of the introductory summary are not taken into account when identifying the compliance costs (for example higher/lower tax revenue, expenses according to Article 104a (3) and (4) of the Basic Law). Revenue from fees shown in the introductory summary under letter D must be juxtaposed with the implementation costs.

The compliance costs must be identified and displayed separately for the Federal State and the *Länder* (see the sample Introductory Summary, Annex III; page 40). The share of the *Länder* also contains the compliance costs of local authorities.

### Examples of tasks triggering compliance costs:

- Processing applications or answering questions (e.g. regarding parental benefits)
- Preparing an official order
- Confirming the receipt of documents
- Accreditation of an educational/training institution
- Monitoring compliance with hygiene regulations by public health offices
- Checking whether certain requirements have been fulfilled

### Step 2.1 Identifying the number of cases

**General principle:** in the case of obligations or processes that need to be fulfilled periodically, the number of cases is obtained by multiplying the frequency by the number of affected parties. The frequency shows how often an obligation or a process is completed per annum or how often the associated costs occur.

In the case of obligations or processes that need to be fulfilled on an event-driven basis, the number of anticipated annual applications should be set as a basis for the number of cases. An appropriate average figure applies in case of fluctuations. The number of cases for monitoring and control measures is normally much lower.

**Example (fictitious):** in accordance with the provisions of a federal regulation, compliance with safety requirements and certain information obligations (e.g. affixing of safety notices) in the hotel and restaurant trade must be verified on an event-driven basis and also by way of spot checks by the competent *Länder* authorities. Since the number of cases depends on the authorities in question performing these checks, it can only be roughly estimated. As an upper limit, it can be assumed that a maximum of 20% of companies in the hotel and restaurant trade will be inspected annually in future. Out of a total number of 266,000 companies in the hotel and restaurant trade, this yields a maximum case number of 53,200 official inspections per annum.

Costs which only occur once within an administrative unit in order to adapt to the legislative proposal are regarded as one-time adjustment costs and must be displayed separately.

**Step 2.2 Identifying the compliance costs per case**

In the next step the costs of complying with an obligation or a process per case will be identified. For this purpose, the main activities performed by administrative bodies to comply with an obligation or a process need to be identified.

Subsequently, the necessary personnel and material costs are identified on this basis. The total costs per case are determined by adding up the costs for all activities.

2.2.1 Personnel costs (page 29 ff.),

2.2.2 Material costs (page 32)

**2.2.1 Identifying personnel costs of public authorities**

The checklist containing likely activities of public authorities for compliance with a provision can be helpful to identify the actual activities in question.

**Checklist:****Activity of public authorities**

- Familiarizing oneself with the provision
- Providing advice, holding preliminary discussions with applicants
- Carrying out formal checks, examining and compiling data and information, performing checks for completeness
- Confirming receipt of data/information or obtaining missing data/information
- Carrying out content-related checks, calculations and evaluations
- Holding internal or external meetings (e.g. hearings)
- Filling in or completing forms, recording data, making classifications
- Checking and, if necessary, correcting results/calculations
- Transmitting and publishing data
- Making payments
- Making corrections (e.g. on account of participation procedures) and/or providing further information in response to inquiries
- Finalizing information
- Preparing official notices
- Photocopying, distribution, filing, documentation
- Implementing monitoring and supervisory measures, classifying risks
- Procuring goods and services and/or recruiting additional staff
- Adapting internal processes
- Attending training courses

General principles for the use of checklists:

In practice, rarely all of the above-mentioned activities will be relevant. The baseline measurement of the administrative costs for business revealed, for example, that the majority of information obligations only require four to six of these activities.

A number of activities are performed automatically if suitable IT is in use. While automatic processing initially does not lead to time expenditure, the provision and maintenance of IT due to a change in obligations can lead to additional material and personnel costs.

In some cases it may be appropriate to add special activities to the above checklist. If special lists are developed and used in future for other estimates, it is recommended to involve the NKR and the Federal Statistical Office at an early stage.

In order to identify the personnel costs for public authorities, the anticipated processing times need to be analyzed first. If the obligation or process under scrutiny results in changes in staff requirements, this must be expressly stated.

Two identification methods are recommended:

- a) Identification of personnel costs per activity and per case, or
- b) Identification of the time expenditure in man-days or man-months.

**a) Identifying personnel costs per activity and per case**

Personnel costs are in principle described by means of the anticipated working hours per activity and per case, which are then multiplied by the job-specific wage rates of the respective employees. The anticipated working hours per case (time expenditure) can be identified, for example, with the help of empirical data, organizational studies or a cost-performance calculation.

**Example:** Activities and time expenditure of public authorities when processing applications for parental benefits (result of the project “easier access to parental benefits”)

Activities	Case group		
	No income from employment prior to birth	With income from employment prior to birth	With income before and after birth, self-employed persons, special cases
	Minutes per case		
Providing advice	20		
Familiarizing oneself with the provision	2		
Examining and compiling data and information, performing check for completeness	3	10	13
Obtaining missing data or information	5	5	9
Filling in or completing forms and/or recording data	8	12	30
Making calculations/evaluations	0	10	40
Checking and, if necessary, correcting results	5	10	10
Finalizing information	2		
Holding internal or inter-authority meetings	1		
Making payments	1		
Photocopying, distribution, filing, documentation	4		
Providing further information in response to inquiries	1		
Attending training courses	2		
<b>Total</b>	<b>54</b>	<b>80</b>	<b>135</b>

The job-specific wage rates are shown in the Labour Cost Table of the Federal Statistical Office (Annex VII, page 46).

**b) Identification of time expenditure in man-days or man-months per obligation/process and authority**

In the case of permanent tasks or if empirical data is available (e.g. from organizational studies, comparative circles), it may be expedient to identify the time expenditure in man-days or man-months without breaking it down to individual activities first. The calculations must then be based on the annual number of hours which can be assigned on average to the actual services provided by each public authority. The following standard values based on a 40-hour week apply to employees in the civil service:

1 man-day:	8 hours
1 man-month:	134 hours
1 man-year:	202 working days

**Example (fictitious):** Identification of personnel costs in man-days or man-months per obligation/process and authority

Obligation / process	Authority	Time expenditure (per annum)	Wage rate per hour <sup>8</sup> (in euro)	Calculation
Obligation 1: technical coordination	Federal ministry XY	4 man-months (4 x 134 hours = 536 hours)	52.30	536 x 52.30 = <b>28,033 euro</b>
Obligation 2: Performing risk analyses	Federal authority XY	18 man-months (18 x 134 hours = 2,412 hours)	32.10	2,412 x 32.10 = <b>77,425 euro</b>
Control activities	Federal authority XY	6 man-months (6 x 134 hours = 804 hours)	32.10	804 x 32.10 = <b>25,808 euro</b>
<b>Total personnel costs per annum</b>				<b>131,266 euro</b>

### 2.2.2 Identifying the material costs per case of public authorities

Material costs include the anticipated operating, maintenance and investment expenses for complying with an obligation or a process.

If additional staff will likely be required in order to comply with an obligation or process, the corresponding material costs need to be quantified. In principle, the costs for a standard workplace must be taken as basis for this purpose.

Alternatively, a flat-rate for material costs can be applied for a standard workplace. It amounts to 11,908 euro in Federal Administration<sup>9</sup>. These flat-rate material costs already include the annual investment costs per employee or per job.

The flat-rate for material costs of a workplace in Federal Administration should only be applied as a basis if the assumptions made during the calculation in the particular area under scrutiny do not imply otherwise. The anticipated costs of setting up a laboratory workplace at the Robert-Koch-Institute [a renowned biological institute], for example, will be higher than the costs of setting up a standard workplace. When identifying the compliance costs, any other necessary investment costs for public authorities should also be itemised in detail

These costs include, for example:

- costs incurred through referring to the services of third parties (services of tradesmen),
- costs incurred through purchasing special information and communication technology,
- costs incurred through retrofitting machines.

<sup>8</sup> Cf. Labour Cost Table for Public Authorities in Annex VII, page 46

<sup>9</sup> For a detailed presentation, please refer to Annex 2 of the regularly published circular of the Federal Ministry of Finance, GZ. II A 3 – H 1012-10/07/0001: 004 of 9 May 2011



**Step 2.3 Identifying the total compliance costs**

The costs per case plus the pro rata material costs multiplied by the number of cases yield the compliance costs for an obligation or a process. For public authorities, the compliance costs of a legislative proposal constitute the total costs of public authorities for all obligations or processes contained in the legislative proposal.

**Example:** Identification and presentation of the compliance costs for public authorities due to a legislative proposal (fictitious)

Obligation/ process	Annual personnel costs	One-time personnel costs	Annual material costs	One-time material costs
Obligation 1	2,070,000			
Obligation 2	430,000		124,000	33,000
<b>Total</b>	<b>2,500,000</b>		<b>124,000</b>	<b>33,000</b>

**Annual compliance costs for public authorities: 2.6 million euro**

**One-time adjustment costs: 33,000 euro**

#### Step 3 Presentation of the overall results

Anticipated changes in the compliance costs must be identified in accordance with Section 44 (5) and Annex 3 of the Joint Rules of Procedure of the Federal Ministries (GGO), and must be presented in the introductory summary and in the explanatory memorandum of a legislative draft.

##### Presentation in the introductory summary

The introductory summary setting out the reasons for the legislative proposal should not exceed one page. In view of this fact, only the main results of the identification of the compliance costs should be highlighted under “E. Compliance Costs“. In particular, the following questions should be briefly addressed:

##### Compliance costs for citizens

What is the overall change in costs for citizens (in terms of time and money) to be expected on account of the legislative proposal?

##### Compliance costs for business

What is the overall change in costs for business? The annual compliance costs and one-time adjustment costs need to be reported separately. It is sufficient to show the balance resulting from all obligations or processes. Additional or reduced costs resulting from compliance with information obligations must be displayed separately. The quantity of information obligations introduced, changed or withdrawn needs to be stated, as well as the amount of annual additional or reduced costs on balance.

##### Compliance costs for public authorities

What is the change in costs for public authorities?

The annual compliance costs and one-time adjustment costs need to be reported separately. The costs for the Federal Government and the *Länder* (incl. local authorities) must be displayed separately. It is sufficient to show the net total costs resulting from obligations or processes.

##### Example of introductory summary (fictitious):

###### E1. Citizens

Total additional compliance costs per annum = approx. 200,000 hours and 2.5 million euro

###### E2. Business

One-time adjustment costs = 33 million euro; additional compliance costs per annum: 20 million euro; three new information obligations inducing administrative costs of 3 million euro annually (contained in the compliance costs)

###### E3. Public authorities

Additional compliance costs at federal level: 2 million euro per annum; at *Länder* level incl. local authorities: 1 million euro per annum; one-time adjustment costs: 1.5 million euro.

### III Identification Pattern and Procedure

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#### **Presentation in the explanatory memorandum**

The information in the introductory summary is elaborated and further substantiated in the explanatory memorandum. The following aspects need to be taken into account when doing so:

The description of the compliance costs should form a separate section of the general explanatory remarks.

As introduction, the overall results of the compliance costs calculation should be summarized. The statements from the introductory summary can be copied for this purpose.

Unlike in the introductory summary, the cost calculations must be clearly explained in the explanatory memorandum:

- obligations or processes (incl. the corresponding provision)
- results of the identified changes in compliance costs
- brief presentation of the main assumptions on which the analyses was based
- regulatory options and reasons for deciding on the one chosen
- a supplementary table (if helpful)

As regards ongoing application procedures in particular, it is recommended to present the usual duration of the procedure in question (from application to requested decision). The effect of a change in law aiming at expediting this procedure can only be described if relevant information is given and, where applicable, comparative values from similar procedures are also available. At the same time, one needs to consider that the processing times of public authorities are regarded as a key quality indicator.

### **Annex I: Cabinet decision of 27 January 2010**

#### **Key points regarding bureaucracy reduction and better regulation in the 17th legislative period**

The Federal Government wants to shape policies for the future that will strengthen economic performance and social responsibility. To support these goals, the Federal Programme for the Reduction of Bureaucracy Reduction and Better Regulation of 25 April 2006 will be expanded to take into account the total administrative burden federal legislation places on citizens, business and public authorities. The necessary methods shall be developed together with the National Regulatory Control Council and adopted by the end of March 2010.

From July 2010, the Federal Government Coordinator for Bureaucracy Reduction and Better Regulation will inform the Cabinet regularly on the progress achieved in implementing the programme.

#### **1. Achieving a 25 per cent net reduction of information obligations for business**

Until the end of 2011, the Federal Government will initiate and implement additional simplification measures in order to reduce the costs caused by informational obligations for business by a total of 25 % compared to the legal framework valid on 30 September 2006. Examining the costs of bureaucracy includes EU-law to the extent that it was transposed into national law by a federal legislative act.

Costs incurred since 1 October 2006 due to information obligations shall be compensated by simplifications in other areas.

Due to the different responsibilities and obligations of the ministries, it is not possible to achieve an equal reduction in each ministry. The Federal Government is therefore in agreement that the overall reduction target does not have to be met by each ministry, but by the Federal Government as a whole.

Until May 2010, the ministries will draft proposals of their implementation plans. These plans will contain a list of the intended projects and a description of the anticipated burdens and burden reductions.

The Better Regulation Unit will determine the estimated overall reduction and the Committee of State Secretaries will decide whether additional measures are necessary. Subsequently, the Committee of State Secretaries will adopt the overall implementation plan by 1 July 2010. It will reflect the reductions achieved at a given point in time. This review will form part of the regular Cabinet briefings.

The Federal Statistical Office will further develop the current SKM database and turn it into a central database for all stakeholders. It shall contain the costs resulting from information obligations already measured or estimated by the ministries, and will form the basis for further controlling. The corresponding technical requirements and the necessary procedural steps will have to be met by 1 July 2010.

### **2. Reducing existing burdens in priority areas of life and law**

In order to achieve further perceptible simplifications for citizens, business and public authorities, the Federal Government will implement projects involving different areas of law and government. After a definition of and a method for identifying compliance costs have been established, the Committee of State Secretaries for Bureaucracy Reduction will decide on a pilot project for testing the method at the end of March 2010, which will begin in April 2010.

During the course of 2010, projects in the following priority areas will commence:

- Planning and construction law in infrastructure projects (i.a. Federal Ministry of Transport, Building and Urban Development, Federal Ministry for Environment, Nature Protection and Nuclear Safety)
- Tax declarations, obligations to provide supporting documents for tax and customs (i.a. Federal Ministry of Finance)
- Harmonization and shortening of retention and evaluation periods under commercial, tax and social law (i.a. Federal Ministry of Justice, Federal Ministry of Finance, Federal Ministry of Labour and Social Affairs)
- Company officers (i.a. Federal Ministry of Labour and Social Affairs, Federal Ministry of the Interior, Federal Ministry for Environment, Nature Protection and Nuclear Safety)
- Applications for statutory benefits and services, in particular for
  - start-ups and small businesses, as well as companies facing bankruptcy (i.a. Federal Ministry of Labour and Social Affairs, Federal Ministry of Economics and Technology)
  - people requiring nursing or suffering from chronic or serious illness (i.a. Federal Ministry of Health)
  - families and single parents (i.a. Federal Ministry of Finance, Federal Ministry for Families, the Elderly, Women and Youth)
- Simplifying the electronic registration of a business (i.a. Federal Ministry of Economics and Technology)

The running order of the projects will be determined following recommendations by the ministries due end of March 2010 in order to accommodate for the measuring capacities of the Federal Statistical Office. By the end of 2011, the measurable compliance costs in the examined areas and possibilities for reduction of same shall be presented.

The overall goal is to achieve an average net burden reduction of 25%.

The Committee of State Secretaries for Bureaucracy Reduction will act as steering committee for these projects. The Better Regulation Unit will coordinate their implementation. Together with the Federal Statistical Office, it will ensure that the same methods and monitoring techniques are applied and that joint monitoring is carried out. The National Regulatory Control Council is invited to participate.

### **3. Roll-out of the ex-ante procedure**

After a definition of and a method for determining compliance costs have been laid down, all new legislative proposals of the Federal Government will be subject to a comprehensive examination of the likely effect on the compliance costs for citizens, business and public authorities. As regards EU-law, reference is made to number 1.

### **4. Extension of the competences of the National Regulatory Control Council**

The Federal Government supports the idea of broadening the mandate of the National Regulatory Control Council (NKR). When examining legislative proposals, it shall also scrutinize whether the specified criteria of the methodology have been implemented correctly, particularly with respect to the plausibility-assessment of so-called “other administrative costs” and term-limitations of regulations.

The Federal Government also supports involving the NKR to a greater extent in law-making.

### **5. Promoting the reduction of bureaucracy at EU level**

The Federal Government will strongly support both reducing and preventing new bureaucracy at EU level. It will work towards an adoption of nationally viable measures of burden-reduction put forward by the European Commission in the Council.

During the negotiations concerning proposed EU legislation, the Federal Government will insist on a plausible impact assessment and contribute with own proposals for simplification.

In addition, the Federal Government advocates the establishment of an independent Council for the Reduction of Bureaucracy based on the model of the NKR with the European Commission and would welcome a prolongation of the mandate of the High Level Group of Independent Stakeholders on Administrative Burdens as an important first step in this direction.

### Annex II: Letter to the Federal Ministries on the new guidelines

(Address)

The amendments to the Act on the Establishment of a National Regulatory Control Council (NKRK) and the Joint Rules of Procedure of the Federal Ministries (GGO) demand additional efforts in preparing legislative proposals of the Federal Government. In order to identify and present the compliance costs, more data and calculations are required than for estimating the administrative costs stemming from information obligations. In this context, the participation of the *Länder*, associations of local authorities, expert groups and trade associations is gaining importance. Nevertheless, it will be possible – as hitherto – to adopt urgent legislative proposals in agreement with the National Regulatory Control Council (NKR) without unnecessary delay.

The guidelines were jointly adopted by the Committee of State Secretaries on Bureaucracy Reduction and the NKR. They are mandatory regarding proposals of the Federal Government submitted to the Cabinet and demanding inter-ministerial consultation after 1 July 2011. Irrespective of the beginning of inter-ministerial consultation, from 1 September 2011 the guidelines must be applied to all legislative proposal submitted to Cabinet. The rights of review of the NKR according to § 4 (1)NKRK remain unimpaired.

If necessary, it is intended to adapt the guidelines in dialogue with the *Länder* after a trial phase running until the end of 2011. Furthermore, an evaluation of the cooperation of all involved is recommended after the guidelines have been in practice for 2 to 3 years.

In the meantime, an adequate procedure of the Federal Government to account for the provisions of the NKRK<sup>10</sup> during the drafting of EU legislative proposals must be developed in accordance with the competent authorities.

These guidelines replace the guidelines on the ex-ante estimation of administrative costs according to the Standard Cost Model.

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<sup>10</sup> in conjunction with the Act on the Cooperation between the German Federal Government and the German Bundestag in matters concerning the European Union (EUZBBG) and the Act on Cooperation between the German Federal Government and the Länder in Matters concerning the European Union (EUZBLG)

### **Annex III: Sample introductory summary pursuant to Section 42 (1) Sentence 1 of the Joint Rules of Procedure of the Federal Ministries (GGO)**

- A. Problem and objective
- B. Solution
- C. Alternatives
- D. Budgetary expenditure excluding compliance costs  
*[broken down by Federal State, Länder and local authorities]*
- E. Compliance costs  
*[Section 2 of the Act on the Establishment of the National Regulatory Control Council; the Guidelines on the Identification and Presentation of Compliance Costs in Legislative Proposals of the Federal Government shall apply.]*
  - E.1 Compliance costs for citizens
  - E.2 Compliance costs for business, of which administrative costs arising from information obligations  
*[Section 2 (2) of the Act on the Establishment of a National Regulatory Control Council]*
  - E.3 Compliance costs for public authorities  
*[broken down by Federal State and Länder (including local authorities)]*
- F. Other costs  
*[primarily other costs for business, costs for social security systems, impact on individual prices and the price level, in particular on the consumer price index]*



**Annex IV: Time expenditure table for information obligations of citizens**

If the obligation is an information obligation in terms of the Standard Cost Model, and if comparative data for the time expenditure for individual activities is not available as of yet, the so-called time expenditure table for citizens can be applied. The table contains values in minutes for a large part of the above-mentioned standard activities. The standard activities are differentiated according to the degree of difficulty as “Easy”, “Moderate“ and “Complex“.

The time expenditure calculated according to the table should always be verified by experts. If there are strong grounds for assuming that the value calculated according to the table is very probably overstated or understated, the more realistic value estimated by experts should be applied.

**Time expenditure table for citizens**

No.	Activity	Time in minutes		
		Easy	Moderate	Complex
1	Familiarizing oneself with the obligation	2	5	20
2	Obtaining expert advice (advisory institutions, local administration, etc.)	10	30	79
3	Gathering and compiling information (e.g. printed forms, documentary evidence, photos, etc.)	1	3	20
4	Processing information and data (including performing calculations and checks)	1	5	54
5	Filling in forms	2	5	25
6	Drafting correspondence (letters, faxes, e-mails, etc.)	3	5	13
7	Sending information or data to competent authorities (if necessary, incl. handing it over in person)	1	2	5
8	Making payments (e.g. filling in a bank transfer form)	1	2	3
9	Photocopying, filing and storing documents	1	3	6
10	Arranging inspections by public authorities (Safety inspections, control visits, public health officer, etc.)	1	15	60
11	Submitting other information to authorities in response to queries (presenting documents, etc.)	2	5	15

(As at October 2011; source: Federal Statistical Office)

**Annex Va: Simplified procedure for information obligations of business**

If information obligations do not exceed 10,000 cases per year, the ministries may identify the administrative burden by using a simplified procedure. For this purpose, an information obligation is assigned to one of the following cost categories and the corresponding cost factor is used as a basis. If the burden is less than 100,000 euro (minimum level), no further estimates are required in general (see below for exceptions).

If information obligations exceed 10,000 cases per year or if the related burden calculated on the basis of the simplified procedure exceeds 100,000 euro, the estimates are performed in the usual way.

Irrespective of the burden calculated using the simplified procedure, an estimate should be made in individual cases according to the described ex-ante procedure if the responsible ministry or the National Regulatory Control Council considers this necessary.

**Cost categories and cost factors**

Cost category	Cost factor in euro
Reports on certain activities and reporting obligations which affect all areas of business	0.41
Reports on certain activities and reporting obligations which affect selected areas of business (low complexity)	2.48
Reports on certain activities and reporting obligations which affect selected areas of business (moderate complexity)	4.01
Reports on certain activities and reporting obligations which affect selected areas of business (high complexity)	26.06
Labelling obligations of third parties (low complexity)	0.44
Labelling obligations of third parties (moderate and high complexity)	11.34
Provision of information (excl. labelling obligations)	4.38
Individual and general permits (low complexity)	7.58
Individual and general permits (moderate and high complexity)	34.62
Registrations	88.33
Certification, control visits, cooperation obligations	70.31
Taxes/subsidies (low complexity)	6.76
Taxes/subsidies (moderate complexity)	16.64
Taxes/subsidies (high complexity)	188.09
Other information obligations (low complexity)	0.80
Other information obligations (moderate and high complexity)	1.44

(As at December 2007; source: Federal Statistical Office)

In order to identify the estimated costs for an information obligation, the information obligation is assigned to one of the 16 cost categories and the related cost factor is multiplied by the number of cases the information obligation occurs.

### **Annex Vb: Time expenditure table for information obligations of business**

If comparative data for the time expenditure for individual activities is not available as of yet, the so-called time expenditure table for business can be applied. The table contains values in minutes for a large part of the above-mentioned standard activities. The standard activities are differentiated according to the degree of difficulty as “Easy”, “Moderate“ and “Complex“.

Time expenditure calculated according to the table should always be verified by experts. If there are strong grounds for assuming that the value calculated according to the table is very probably overstated or understated, the more realistic value estimated by experts should be applied.

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## Annexes

**Time expenditure table for business**

	<b>General standard activity</b>	Easy (min.)	Moderate (min.)	Complex (min.)	<b>Explanation</b>
I.	<b>Familiarizing oneself with the information obligation</b>	3	15	120	Are separate costs incurred because the information obligation is regularly changed or is only rarely used?
II.	<b>Procuring data</b>	3	15	120	What costs are incurred by procuring necessary information and data?
III.	<b>Filling in forms, labelling, classifying</b>	3	7	30	What costs are incurred, for example, by filling in an application form?
IV.	<b>Performing calculations</b>	3	20	120	What calculations, evaluations, counts have to be performed?
V.	<b>Checking data and inputs</b>	1	5	45	Are costs incurred through control measures?
VI.	<b>Correcting errors</b>	2	10	60	Are costs incurred through corrective measures?
VII.	<b>Processing data</b>	3	15	120	What costs are incurred through the processing of data?
VIII.	<b>Transmitting and publishing data</b>	1	2	10	What costs are incurred through sending data and/or publishing data or information?
IX.	<b>Internal meetings</b>	5	30	480	What costs are incurred through necessary internal meetings?
X.	<b>External meetings</b>	10	60	480	What costs are incurred through necessary external meetings (e.g. with tax consultants)?
XI.	<b>Making payments</b>	2	8	30	Are costs incurred, e.g. when filling in a bank transfer form?
XII.	<b>Photocopying, filing, distribution</b>	2	5	15	Are costs incurred, e.g. for photocopying activities or filing work?
XIII.	<b>Audit by public authorities</b>	2	30	240	What costs are triggered, e.g. through company auditors?
XIV.	<b>Corrections</b> which have to be made as a result of the public audit	3	90 <sup>1</sup>	90 <sup>1</sup>	Are costs incurred for corrections and revision of data?
XV.	<b>Procuring additional information</b> in case of difficulties with the responsible authorities	3	15	120	Are costs incurred through procuring additional information?
XVI.	<b>Training</b>	3	35	480	Are costs incurred because compliance with an information obligation necessitates training?

(As at December 2008; source: Federal Statistical Office in cooperation with the Institute for SME Research, Bonn)

<sup>1</sup> Due to the low number of cases, no differentiation was made between “moderate” and “complex”

**Annex VI: Labour cost table for business**

Commercial sector		Qualification level			Average
		Low	Medium	High	
A	Agriculture and forestry	13.8	18.4	22.1	18.1
B	Fishing and fish farming	16.1	23.8	29.9	23.3
C	Mining and quarrying of stone and earth	19.9	27.5	36.7	28.0
D	Manufacturing industry	20.9	33.5	53.7	36.0
E	Electricity, gas and water supply	25.2	38.0	54.8	39.3
F	Construction industry	15.8	26.5	44.6	29.0
G	Wholesale and retail trade: maintenance and repair of motor vehicles and consumer goods	20.4	23.9	38.9	27.7
H	Hotel and restaurant trade	11.5	18.6	23.7	17.9
I	Transport and communications	22.5	28.3	40.4	30.4
J	Finance and insurance	24.7	37.6	52.8	38.4
K	Real estate business, renting of goods and chattels, provision of business services not mentioned elsewhere	18.8	28.9	46.4	31.4
L	Public administration, defence, social security	21.2	32.6	52.4	35.4
M	Education and training	20.7	31.9	51.1	34.6
N	Health care, veterinary medicine and social services	18.7	28.8	46.2	31.2
O	Provision of other public and personal services	19.0	29.3	47.0	31.8
	Business as a whole (A-O)	19.3	28.5	42.7	30.2

(As at 2006; source: Federal Statistical Office)

### Annex VII: Labour cost table for public authorities

Based on the labour cost table for information obligations of business pursuant to the Standard Cost Model, a separate labour cost table was developed for public authorities by the Federal Statistical Office. Just like business, the standard wage rates of public authorities are displayed separately in euro according to the level of hierarchy and qualification.

The staff cost rates in 2010 are also published in the Letter by the Federal Ministry of Finance dated 9 May 2011;

Ref.: II A 3 - H 1012-10/07/0001:004; Doc. No. 2011/0073062.

#### Labour cost table for public authorities: standard wage rates per hour

Level	Simple service grades	Lower intermediate service grades	Higher intermediate service grades	Higher service grades	Average
	Wage in Euro				
Cross-level (Federal level/ <i>Länder</i> /local authorities)	20.60	24.70	33.00	53.40	32.90
Federal level	20.50	24.50	32.10	52.30	32.40
<i>Länder</i>	20.10	24.30	32.00	52.40	32.20

(As at 2006; source: Federal Statistical Office)

### **Annex VIII: Definitions of terms and explanatory notes**

#### **Addressees**

Citizens, business and public authorities represent the possible addressees of an obligation.

The addressee “business” includes every unit which performs an economic activity that contributes to the gross domestic product and belongs to the private sector. The private sector also includes charitable and volunteer organizations; it does not include public authorities, private households or extra-territorial bodies and organizations.

Public authorities are defined as administrative units charged with the performance of administrative tasks (institutions and public foundations under public law, including entities entrusted with sovereign tasks).

All obligations directed towards natural persons constitute obligations of citizens. If a natural person is an entrepreneur, the obligations addressed to the person on account of his/her status as entrepreneur are regarded as obligations of business.

Obligations can affect several addressees simultaneously.

#### **Compliance costs**

Compliance costs include the total measurable time expenditure and the costs placed on citizens, business and public authorities on account of an obligation under federal law. Administrative costs stem from information obligations and form part of the compliance costs. Administrative costs must be displayed separately for the addressee “business“.

In the case of citizens and public authorities, it is not necessary to make a distinction between information obligations and other obligations.

The compliance costs of public authorities include implementation costs. The fiscal actions of public authorities as addressees of a provision (e.g. as owner of vehicles or as builder) also count as compliance costs. Compliance costs are primarily incurred by public authorities through processing of applications or performing supervisory tasks, and through providing information and material (e.g. application forms) to citizens or business or other areas of public administration.

Revenue and expenditure presented in legislative proposals under letter D of the introductory summary are not considered when identifying the compliance costs (for example higher/lower tax revenue, expenses according to Article 104a (3) and (4) of the German Basic Law).

Only the cost aspect is taken into account when identifying compliance costs. No balance is struck between costs and benefits of a regulation.

#### **Legislative proposals**

Legislative proposals include all drafts of legal and administrative regulations which are subject to a regulatory impact assessment according to Sections 44, 62 (2) and 70 (1) of the Joint Rules of Procedure of the Federal Ministries (GGO).

### **Obligation**

Obligations are individual provisions which lead directly to a change in costs, time expenditure or both for its addressees. They are the result of federal legislation and induce the addressees to comply with certain objectives or orders or else to refrain from performing certain actions. This also includes obligations to cooperate with third parties and to monitor and control situations, actions, figures or types of behaviour. Information obligations are a special form of obligations.

“Directly” means that the change in costs or time expenditure relates directly to compliance with the particular obligation. One feature of obligations thus defined is that they must be observed by citizens, business and public authorities in order not to act unlawfully or lose any claims to state benefits and services (e.g. applications).

When identifying obligations, one must consider that lawmakers at times only stipulate targets or limit values in addition to orders or bans, or aim, for example, at bringing about a change in behaviour through state aid. These individual measures can also be regarded as obligations because they lead directly to a change in costs or time expenditure among addressees.

### **Process**

Several obligations, which are in practice fulfilled in one step, can be combined to form a process.



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