Better Regulation: evidence based policy making
Experiences in Germany and internationally
Germany‘s better regulation environment in a nutshell:

Cooperation is the rule
Regulatory initiatives are primarily drafted by the Federal Government.

The chancellor determines the policy guidelines. Nevertheless, each of the 14 ministers bears responsibility for his/her own domain.

The German Government (Cabinet) acts and makes decisions according to the principle of collective responsibility.

Germany has 1,700 laws.
Administration in Germany

- 16 states
- 11,000 municipalities
- Numerous self-administering bodies (e.g. social insurance) providing public services
- Numerous chambers with compulsory membership carrying out public duties
Cooperation is the rule: Political Parties

Article 21 of the German Constitution:
“(1) Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organisation must conform to democratic principles.

Chairpersons of CDU, SPD, and CSU sign the „coalition agreement“ 16 December 2013 prior to building a new government. The agreement determines usually most (in practice up to 90 per cent) of the government‘s legislative initiatives.
The better regulation experience 1984 - 2005
Council of ministers adopted a comprehensive checklist in 1984

Each minister agreed 1984 to the obligation to adopt the checklist for every single regulatory initiative. In addition: joint rules of procedures were adopted. During the following years numerous governmental committees issued about a dozen reports making proposals for cutting red tape and celebrating successes.
Claim and reality

All legal drafts introduced by the Federal Government to the Parliament carry a structured cover sheet with a maximum of two pages. Usually the sections on „alternatives“ and on „costs“ (excluding effects on public households) say either „none“ or „not applicable“ or „impossible to estimate“ … until 2005.
The better regulation programme as of 2006

“Laws are not made for the statute books. They must be made for real life. They must serve to foster social harmony and solidarity. This means that law-makers must frame laws in comprehensible language, design them to achieve their intended purpose and regulate only what really has to be regulated.”

Key elements of a new better regulation culture as of 2006

- Binding method: estimating costs starts always with a single typical case
- Quality of data and processes: independent scrutiny, public databases, stakeholder involvement
- Monitoring allows to agree + control targets
- Political commitment
Simple calculation of compliance costs by the lead ministry

Compliance costs of a single provision or group of provisions:
Who is concerned? How will legal change affect daily life?

- Measurable costs of a single, typical case
- Number of cases (per year)
- Time
- Tariff (business/admin)
- Material costs per case
- Number of those affected
- Frequency per year

Source: Guidelines of the Federal Government for the calculation of compliance costs; [www.destatis.de](http://www.destatis.de)

compare also:
The closed loop system of better regulations

Federal Statistical Office does the monitoring
Changes of compliance costs estimated by the lead ministry, scrutinized by independent advisory board: put in public database, annual report to Parliament

Empirical validation of compliance costs
Two years after coming into effect the Federal Statistical Office validates the compliance costs of the regulation in real life; public databases are up-dated

Systematic evaluation of substantial regulations
Three to five years after substantial regulations come into effect (e.g. costs > 1 Mio. Euro p.a.) the lead ministry evaluates whether the goals are met
The Independent Regulatory Control Council (RCC)

• Ten members nominated by the Federal Government
  ✓ Experts and scientists with experience in legislative matters
  ✓ Members may not belong to a legislative body or to a public authority
• Appointed by Federal President for five years (differs from election term)
• RCC examines each legal proposal, whether information on compliance costs and other parts of the explanatory memorandum are comprehensive and comply with the methodology
• Statement is attached to the cabinet draft and is passed to Parliament and Bundesrat (representation of state governments): statement becomes public
• RCC shall not comment on the intended purposes and aims of regulations
• RCC reports to the chancellor annually; report is forwarded to Parliament
Some more examples from the German RIA exercise

Sustainability
Ministries are obliged to check on sustainability effects, against the German SDG‘s; no fixed methodology; scrutinized by a parliamentary committee

Effects on public households
The Federal Ministry of finance has issued a short guidance; all proposals disclose the effects on public households; politicians pay attention intentionally

More than 40 guidelines available
In 2012 the council of ministers decided to establish a system of e-legislation, which shall incorporate and streamline all guidelines
Ex post-evaluation following a rather systematic approach

Only a few drafts cause compliance costs of more than 1 Mio Euro or 100,000 hrs p.a.

Regulations beyond the threshold are going to evaluated frequently.

Evaluation reports will be sent to independent advisory board and to the Federal Government‘s coordinator.

Source: Federal Statistical Office
Final proof of concept: Experience of stakeholders?

On behalf of the Federal Government the Federal Statistical Office undertakes a bi-annual survey on the perception of the quality of law and the administration regarding 32 life events for citizens and businesses.

First results (2015):
- high overall satisfaction
- top: no discrimination
- flop: comprehensibility

Overall satisfaction with perceived quality of law and administration; here: life event „birth of a child“

[Graph showing overall satisfaction with perceived quality of law and administration]

Source: www.amtlich-einfach.de
Regulatory Impact Assessment designed to provide complete picture – international trends

“Good legislation is a mainstay of freedom, justice, prosperity, competitiveness and political stability in Germany.“

Council of Ministers, Germany, 4 June 2014
Trend in RIA adoption in OECD member states

Note: This represents the trend in number of OECD jurisdictions with formal requirement for regulatory impact analysis (beyond a simple budget or fiscal impact).


Source: OECD Working paper on regulatory policy and inclusive growth, http://dx.doi.org/10.1787/24140996
Different types of impacts in RIA exercises in OECD member states

Source: OECD Working paper on regulatory policy and inclusive growth, http://dx.doi.org/10.1787/24140996
Different types of impacts in RIA-exercises in OECD member states

Figure 4.10. Assessment of impacts in RIA

Note: Based on data from 34 countries and the European Commission.
Source: OECD Regulatory Policy Outlook 2015, page 115
Thank you for your attention!

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