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**Sachstand**

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**Fragebogen zur Gesetzesfolgenabschätzung**

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## **Inhaltsverzeichnis**

<b>1.</b>	<b>Legal and Institutional Framework for the Impact Assessment/Monitoring and Evaluation of the New Regulations</b>	<b>4</b>
<b>2.</b>	<b>Methodological Aspects and Analytical Instruments for Regulatory Impact Assessment: Cost-Benefit Analysis as an essential aspect of RIA</b>	<b>9</b>
<b>3.</b>	<b>How to evaluate the impact of new laws on public finance: analytic instruments and parliamentary procedures – The role of the parliamentary offices</b>	<b>11</b>
<b>4.</b>	<b>Contact information and further remarks</b>	<b>14</b>

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## 1. Legal and Institutional Framework for the Impact Assessment/Monitoring and Evaluation of the New Regulations

1.1. Is the use of regulatory impact assessments grounded in national legislation in your country?

Yes  No

If yes, please specify the statutory/legal base of the documents laying down the requirements for the use of RIA in your country.

- Organic Law
- Ordinary Law
- Government Decree
- Other

Other, please specify

Joint Rules of Procedure of the Federal Ministries of Germany (henceforth "GGO of the Federal Ministries")

Additional Information:

§ 96 Rules of Procedure of the German Bundestag: The Budget Committee gives an opinion on "financial submissions". These are bills, ordinances and administrative regulations, which have a substantial impact on the public budget. In these cases, the budget committee will report to the plenary.

1.2. Please indicate the year when the legal requirements, if any, referring to the use of RIA were introduced in your country.

- 1984: Introduction of the so-called "Blue Questions" = catalogue of ten questions primarily intended to prevent overregulation (no legal requirement)
- 1996: "Blue Questions" are integrated into the GGO of the Federal Ministries (legal requirement)
- 2000: Extensive RIA requirements are specified in the GGO of the Federal Ministries.

1.3. Based on the existing legal framework, requirement to apply RIA refers to:

- All regulations, if so proceed to question 4
- Specific set of regulations

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1.4. Please specify what kinds of regulations does RIA requirement apply to (primary and/or subordinate regulations, i.e. ministerial decrees; regulations initiated by Executive and/or Legislature, etc.)

1. Federal government bills = §§ 43 and 44 GGO of the Federal Ministries
2. Ordinances/legal decrees = § 62 GGO of the Federal Ministries
3. Administrative regulations = § 72 GGO of the Federal Ministries
4. Legislative projects of the European Union = § 74 GGO of the Federal Ministries

1.5. Please describe the threshold test, if any, employed to decide whether to apply RIA for the regulation (e.g. Preliminary Impact Assessments, qualitative vs quantitative thresholds, discretionary exemptions).

Additional Information:

There is no threshold test. RIA requirements apply to all regulations.

1.6. Please indicate the average number of regulatory impact assessments undertaken annually (for the last 3 years).

Last legislature (2013-2017):

Laws: 784

Ordinances: 406 + 10 (Foreign Trade)

Administrative agreements: 28

Additional information:

Each **draft** piece of legislation must contain a so-called "explanatory memorandum" with information on (§ 43 GGO of the Federal Ministries):

- purpose and necessity of the bill
- matters of facts underlying the bill
- other possible solutions
- duties of disclosure
- **regulatory impacts/RIA** (see below)
- explanations for the date(s) chosen for entry into force
- whether the law proposes to simplify the law and administrative procedures
- compatibility with EU law and with international treaties

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The **RIA** of the "explanatory memorandum" must contain (§ 44 GGO of the Federal Ministries):

- impacts on the federal public budgets (income and expenditure) as well as on the budgets of the German states and local authorities
- compliance costs to:
  - citizens (especially in their role as consumers)
  - business sector (especially SMEs, effects on prices)
  - public administration

Further requirements according to the GGO of the Federal Ministries:

- Equality between women and men shall be promoted by all political, legislative and administrative actions of the federal ministries in their respective area ("gender mainstreaming") (§ 2 GGO).
- Before a bill is submitted to the Federal Government for adoption, it must be sent to the Federal Ministry of Justice to be examined in accordance with systematic and legal scrutiny (§ 46 GGO).

- 1.7. Please provide information about the institutional set-up of the RIA system, specifically the agencies responsible for (separately for the executive and the legislature, if necessary). Please also provide information on the timing (duration in days) of each of the main steps as laid down in legal RIA system or based on practical experience (separately for the executive and the legislature, if necessary):

Preparation of RIAs (agency name, structural unit, number and position/educational background of the people involved in respective component of RIA system):

- The lead federal ministry has the obligation to prepare the RIAs in cooperation with:
  - the other federal ministries (especially Federal Ministry of Finance for impact on the public budgets),
  - the Federal Statistical Office,
  - the ministries of the German states and
  - the national associations of local authorities of Germany.
- The number and the educational background of the employees involved depend heavily on the respective piece of legislation.

Additional information:

The ministries of the German states can get information from their state statistical office. In addition, a joint data analysis group exists, which provides consolidated budgetary data on all 16 German states (e.g. expenditures for education).

Oversight/Coordination (agency name, structural unit, number and position/educational background of the people involved in respective component of RIA system):

As a result of its program on "Bureaucracy Reduction and Better Regulation", the Federal Government of Germany established the National Regulatory Control Council (NRC) as an independent oversight institution in 2006. For each draft piece of legislation the NRC prepares a review report on the ministries' estimates of the compliance costs for citizens, the business sector and public administration. It delivers its review report to the Federal Government before the Cabinet adopts a solution to introduce the respective piece of legislation. The review report is also delivered to the Bundestag and Bundesrat. It is attached to the draft piece of legislation and publicly available.

The NRC consists of 10 members, who are appointed for a time period of 5 years and whose professional background is diverse (e.g. university professors, former members of the executive etc.). To support the NRC operationally, a secretariat with 15 members based at the Federal Chancellery has been established.

#### The Federal Statistical Office

Development of guidance/manuals (agency name, structural unit, number and position/educational background of the people involved in respective component of RIA system):

- Federal Ministry of Interior
- Federal Ministry of Finance
- Federal Statistical Office
- National Regulatory Control Council

Quality Control (agency name, structural unit, number and position/educational background of the people involved in respective component of RIA system):

Other important intermediate steps in the RIA process, if any:

Please see answer on the NRC to question 7 "Oversight/Coordination"

Please see answer on the Federal Statistical Office to question 17

Additional Information:

- 1.8. Is there a specific professional development programme (training programme) for those carrying out regulatory impact assessments?

Yes  No

If yes, please specify details:

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1.9. Are regulatory impact assessments publicly available?

Yes  No

If no, please specify why:

1.10. Are there legal requirements to carry out monitoring procedures or ex-post evaluations on all or specific set of regulations in your country?

Yes  No

If yes, please specify details:

According to § 44 (7) GGO of the Federal Ministries, the lead federal ministry must state in the so-called explanatory memorandum of the bill, "whether and, if so, after what period of time, a review is to be held to verify whether the intended effects have been achieved, whether the costs incurred are reasonably proportionate to the results, and what side-effects have arisen."

The Federal Audit Office of Germany ("Bundesrechnungshof"), whose members enjoy judicial independence, audit the account and examine the performance, regularity and compliance of the financial management. It reports annually directly to both Houses of Parliament - i.e. Bundestag and Bundesrat of Germany - and to the Federal Government (Article 114 German Constitution).

1.11. On a scale of 1 – 5 with 5 being the most effective, how would you describe the overall effectiveness of the existing impact assessment/monitoring and evaluation system for the new regulations in your country (considering the contribution of IA/M&E to the decision making process)

1  2  3  4  5

Please describe the primary challenges, if any, hindering the effectiveness of the IA/M&E system/practices.

The employees of the federal ministries prepare the federal government bills and carry out the RIA. The administrative execution of the laws is primarily carried out at the state (regional) or municipal level. The calculation of compliance costs for the state and municipal administration can be difficult for the employees of the federal ministries.



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## 2. Methodological Aspects and Analytical Instruments for Regulatory Impact Assessment: Cost-Benefit Analysis as an essential aspect of RIA

2.1. Please provide information about the major regulatory impacts covered within the RIA framework as laid down in statutory/legal basis governing the RIA system or based on practical experience.

- Economic Impact
- Social Impact
- Environmental impact
- Other

Other, please specify:

- Financial / budgetary impacts
- Administrative costs

Additional Information:

2.2. Does the legal framework in your country lays particular emphasis on specific groups/impact areas for regulatory impact assessments (e.g. SMEs, competition, fundamental human rights)?

Yes  No

If yes, please specify:

§ 44 GGO: SMEs, states and local authorities, consumers

2.3. Which can be considered as the most common analytical method(s) for RIAs in your country:

- Cost-Benefit Analysis (CBA)
- Cost-Effectiveness Analysis (CEA)
- Multi-Criteria Analysis (MCA)
- Other

Other, please specify

Please see “Additional Information”

#### Additional Information:

“The” method of RIA does not exist. A large variety of different methods is used. In particular, an attempt is made to systematically record the cost-benefit-analysis in application practice. In contrast to the SCM, for the majority of RIA methods no standardization has yet taken place. There are many approaches that are deliberately not true to detail, in order to capture the interaction of different parts of the standard design ("cumulative effect"). Likewise, certain approaches do not focus on the immediate, but the indirect effects. Many approaches are not only qualitatively but also quantitatively structured. A serious approach to qualitative models requires a very precise definition of the respective “qualities”. This is usually done by the professionals involved in lengthy in-depth negotiation processes.

Above all, this means that the RIA approaches to cross-cutting issues do not necessarily yet methodologically lead to the comparability of effects across different policy areas, as it is the case with the SCM.

- 2.4. Please describe the most common approaches to qualitative analysis for regulatory impact assessments, if any.

Please see "Additional Information" of question 14

- 2.5. Please describe the most common approaches to quantifying/monetizing non-market impacts for regulatory impact assessments, if any.

- 2.6. Please describe the methods employed to assess administrative costs of the new regulations, if any (e.g. Standard Cost Model).

According to the cabinet decision of 25<sup>th</sup> April of 2006, the SCM was implemented to measure bureaucratic burden in Germany. This model has already been employed in several European countries.

A unit of the Federal statistical office on Bureaucracy Reduction maintains a database, which contains information on the compliance costs. Its methodology is based on the Standard Cost Model.

Information in English:

<https://www.destatis.de/EN/FactsFigures/Indicators/BureaucracyCosts/BureaucracyCosts.html>

- 2.7. On a scale of 1 – 5 with 5 being the highest level, how would you assess the overall availability of the quantitative information for regulatory impact assessments in your country:

1  2  3  4  5

Please describe the primary challenges hindering availability of quantitative data, if any

**3. How to evaluate the impact of new laws on public finance: analytic instruments and parliamentary procedures – The role of the parliamentary offices**

- 3.1. Please specify the statutory/legal base of the documents laying down the requirements for the costing of new policy proposals in your country.

- Organic Law
- Ordinary Law
- Government Decree
- Other

Other, please specify:

Please see answer to question 1

Additional Information:

- 3.2. Based on the existing legal framework, the requirement to cost the new regulations refers to:

- All regulations,
- Specific set of regulations

Additional Information:

Please see answer to question 4

- 3.3. Please indicate the average number of budgetary impact assessments undertaken annually (for the last 3 years).

Please see answer to question 5

Additional Information:

- 3.4. Please provide information about the institutional set-up for costing the new regulations, specifically the agencies responsible for (separately for the executive and the legislature, if necessary):

Costing of the regulations (agency name, structural unit, number and position/educational background of the people involved at the respective step):

Please see answer to question 7 “Preparation of RIAs”

Oversight/Coordination (agency name, structural unit, number and position/educational background of the people involved at the respective step):

Please see answer to question 7 “Oversight/Coordination”

Quality Control (agency name, structural unit, number and position/educational background of the people involved at the respective step):

Additional Information:

Please see answer to question 7 “Quality Control”

- 3.5. If not mentioned earlier, please describe the role of the Parliamentary Budget/Research Departments in costing the new regulations and the role, if any, of the Independent Fiscal Institution set up in your country.

Bundestag:

The bills are usually introduced by the federal government. The parliamentary administration does not prepare bills. The secretariat of the budget committee and the department of budget and finance in the Research Service do not have a role in this process.

Bundesrat:

Initiatives for the introduction of new federal bills can also come from the Bundesrat. In this case, the respective ministries of the German states are responsible for the RIA and the calculation of the costs. The secretariat of the Bundesrat does not have any role in this process

Additional Information:

3.6. Please describe any specific analytic instruments employed for costing the new regulations.

In particular, please state if microsimulation models based on detailed administrative data are used to simulate the budgetary impact of new regulations and if Parliamentary offices have access to such models. If so, does simulation incorporate the effects of behavioral responses to the proposed policy changes?

No, microsimulation models are not used.

3.7. Please provide information on the timing (duration in days) of the main steps of producing cost estimates as laid down in statutory/legal basis governing the process or based on practical experience (separately for the executive and the legislature, if necessary).

Preparation of draft cost estimates:

There is no legal design for the timescale. Rather, it is the responsibility of the respective lead ministry. Therefore, the required time depends on the individual case.

Quality control procedures by the relevant body:

Other important intermediate steps, please specify:

Additional Information:

3.8. Are the above-mentioned cost estimates publicly available?

Yes  No

If no, please specify details:

- 3.9. Please describe the interrelation between the RIAs and costing practices for the new regulations, if any.

Estimates on the impact on the public budgets and on the compliance costs for citizens, the business sector and the public administration are the key components of the RIA.

The database of the Federal Statistical Office on compliance costs is constantly updated on the base of information from the federal ministries.

The ex-post evaluations of the impact of a law can be used in order to carry out future modifications of the respective law.

- 3.10. Please describe the primary challenges hindering the effectiveness of the system/practice for costing of the new regulations, if any

In contrast to the RIA, the bureaucracy cost estimate launched in 2006 has started more successfully. The reason for this is that complex legal consequences can be reduced to a simple pecuniary measure through the SCM. Most importantly, the success of bureaucracy cost estimation is also based on external control by the Regulatory Control Council – especially on the fixation of control by law.

#### 4. Contact information and further remarks

Contact details of the respondent:

<b>Name</b>	██████████
<b>Agency/Organization</b>	Deutscher Bundestag
<b>Structural Unit</b>	Research Service, Department of Budget and Finance
<b>Job Title</b>	██████████
<b>Country</b>	Germany
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**Name**

[REDACTED]

**Agency/Organization**

**Bundesrat of Germany**

**Structural Unit**

**Office of the Finance Committee**

**Job Title**

[REDACTED]

**Country**

**Germany**

**E-mail**

[REDACTED]

4.1. Remarks/feedback concerning this questionnaire:

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