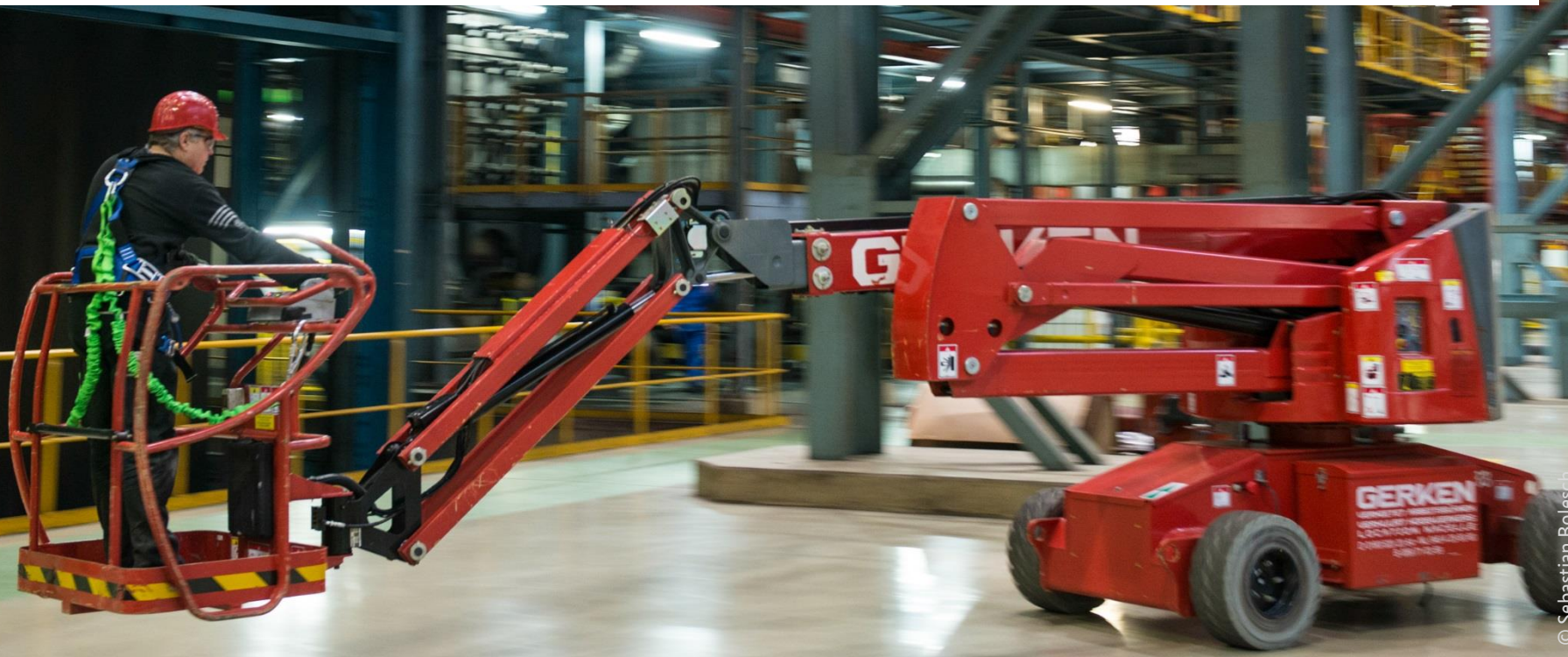




Federal Chancellery

# 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



© Presse- und Informationsamt der BReg, Guido Bergmann

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-administrating 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. ...”

Source: *Article 21 of the German Grundgesetz*

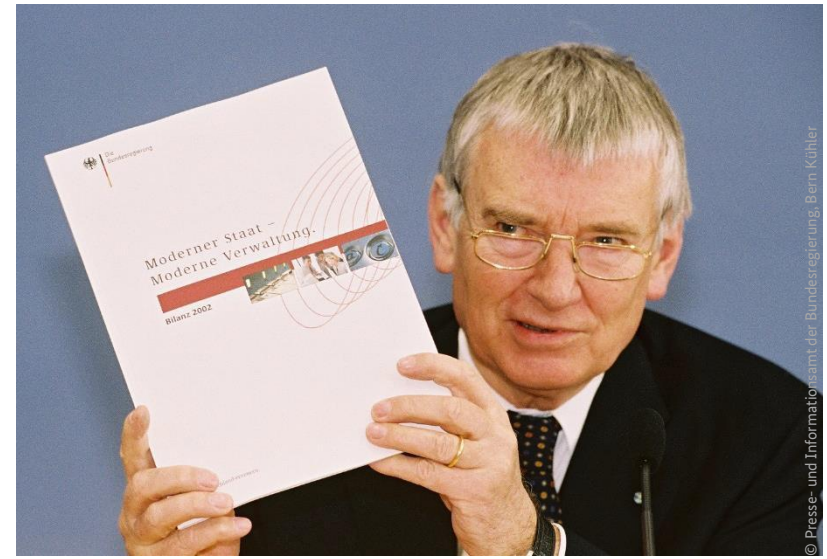


Chairpersons of CDU, SPD, and CSU sign the „coalition agreement“ 16 December 2013 prior to building a new government. The agreement determines usually most (in practice up to 90 per cent) of the government’s legislative initiatives.

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



**Gesetz der Bundesregierung**

**D. Finanzielle Auswirkungen**  
 Finanzielle Auswirkungen des Gesetzentwurfs auf das Steueraufkommen der Gebietskörperschaften in den Kassenjahren 2004 bis 2008

Steuermehr-/Steuermindereinnahmen (-) in Mio Euro

Kassenjahr	2004	2005	2006	2007	2008
Insgesamt	+ 160	+ 1 140	+ 1 325	+ 1 700	+ 1 370
Bund	- 1 289	- 922	- 794	- 857	- 905
Länder	- 1 079	- 668	- 561	- 562	- 646
Gem.	+ 2 528	+ 2 730	+ 2 680	+ 3 119	+ 2 921

**Entwurf eines Gesetzes zur Verbesserung der Einkommensteuer**

**A. Problem und Zielsetzung**  
 Den Gemeinden und den Körperschaften der Länder wird die Einkommensteuererhebung durch den Vorziehen des Einkommensteuertarifs 2005 auf das Jahr 2004 aus. Weitere Einzelheiten können dem Finanztableau am Ende der allgemeinen Begründung entnommen werden.

**E. Sonstige Kosten**  
 Nicht bezifferbar.

**F. Gleichstellungspolitische Bedeutung**  
 Die Gesetzesänderungen haben keine Auswirkungen auf die Gleichstellung der Gemeinden nach...

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.”

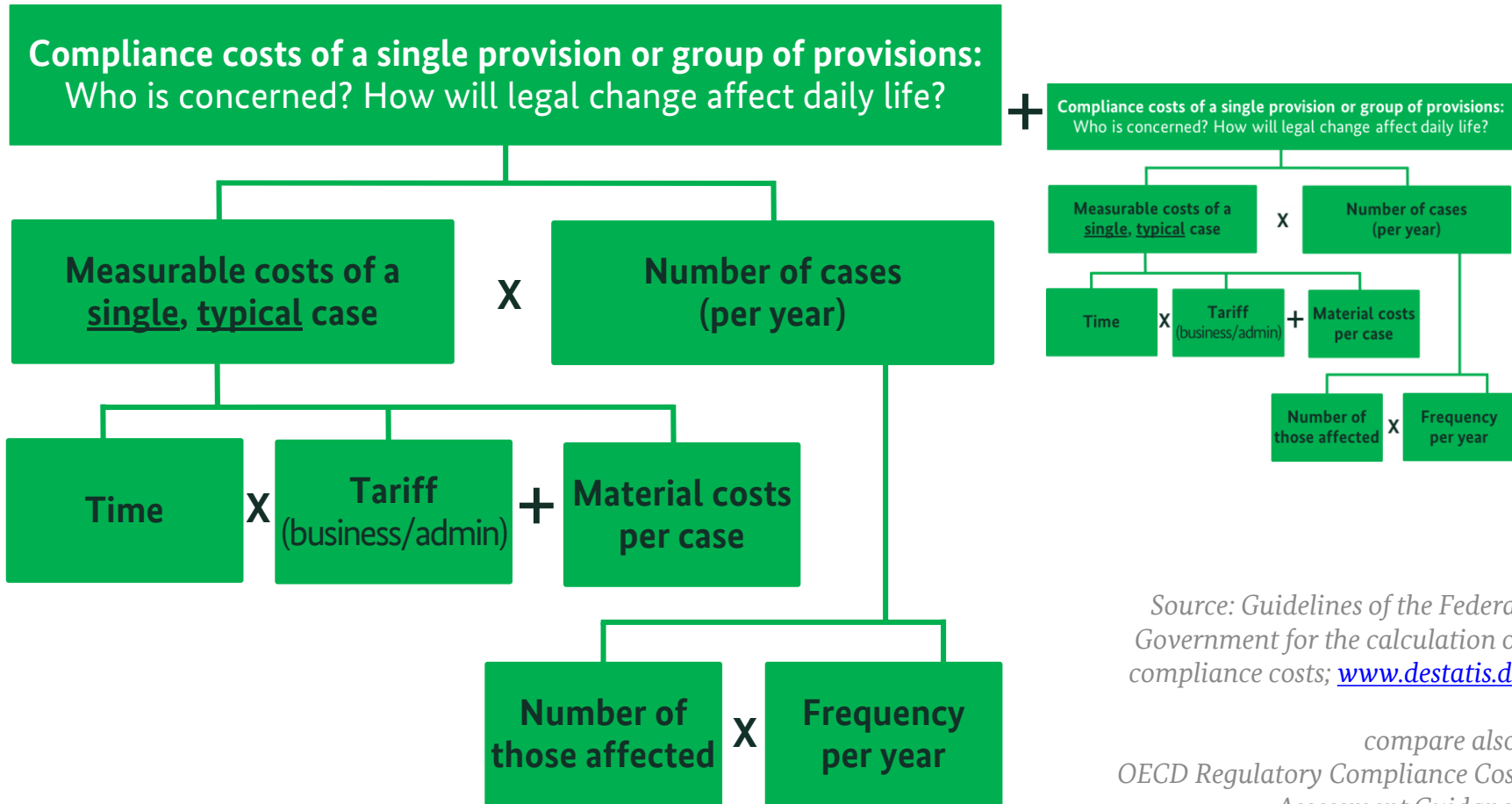
*Federal Chancellor Angela Merkel, Mai 2017,  
Message on Annual Report on Better  
Regulation 2016*

# 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



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

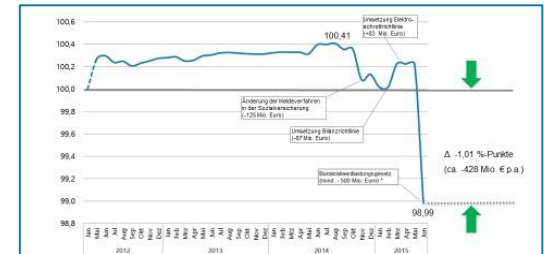
compare also:  
OECD Regulatory Compliance Cost  
Assessment Guidance  
[www.oecd.org/regreform](http://www.oecd.org/regreform);



# 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



© Nina Weymann-Schulz

## 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



© Colourbox

# 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



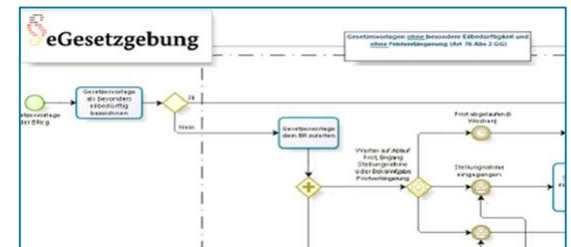
## Effects on public households

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



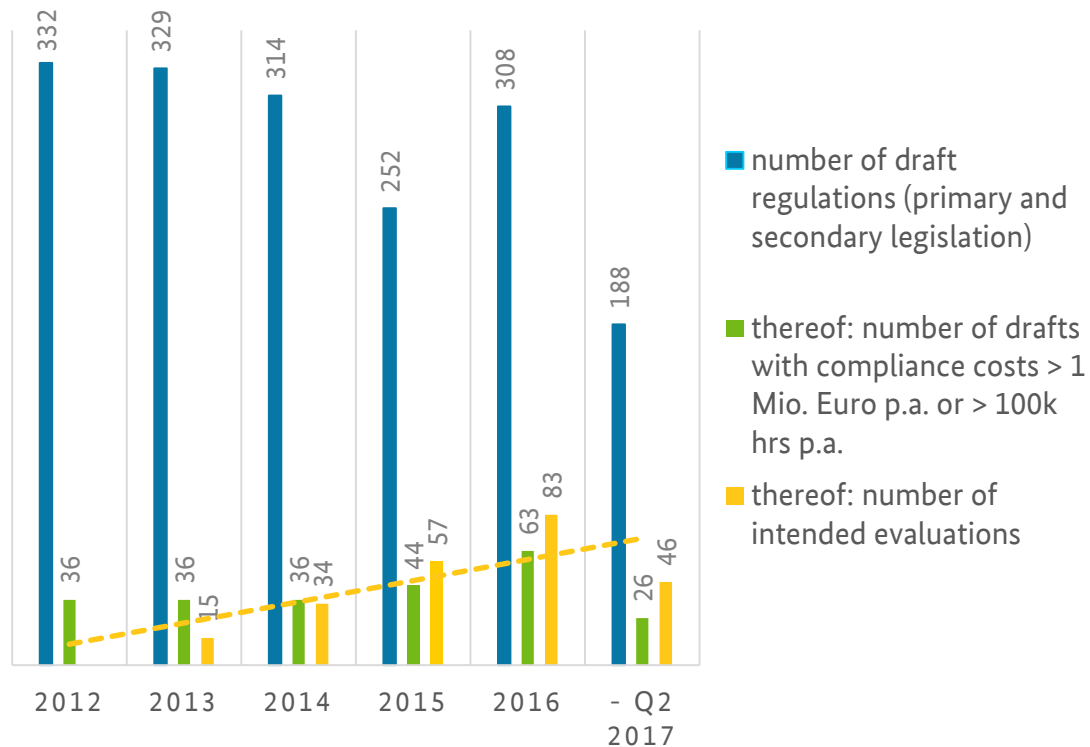
## More than 40 guidelines available

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



Source: Federal Statistical Office

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 be evaluated frequently.

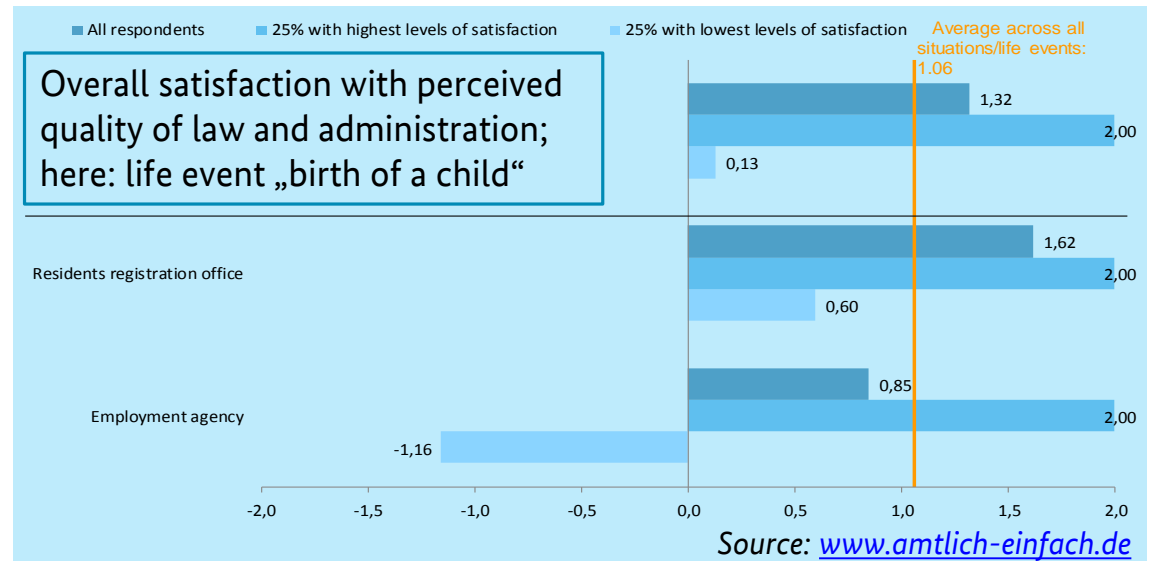
Evaluation reports will be sent to independent advisory board and to the Federal Government's coordinator.

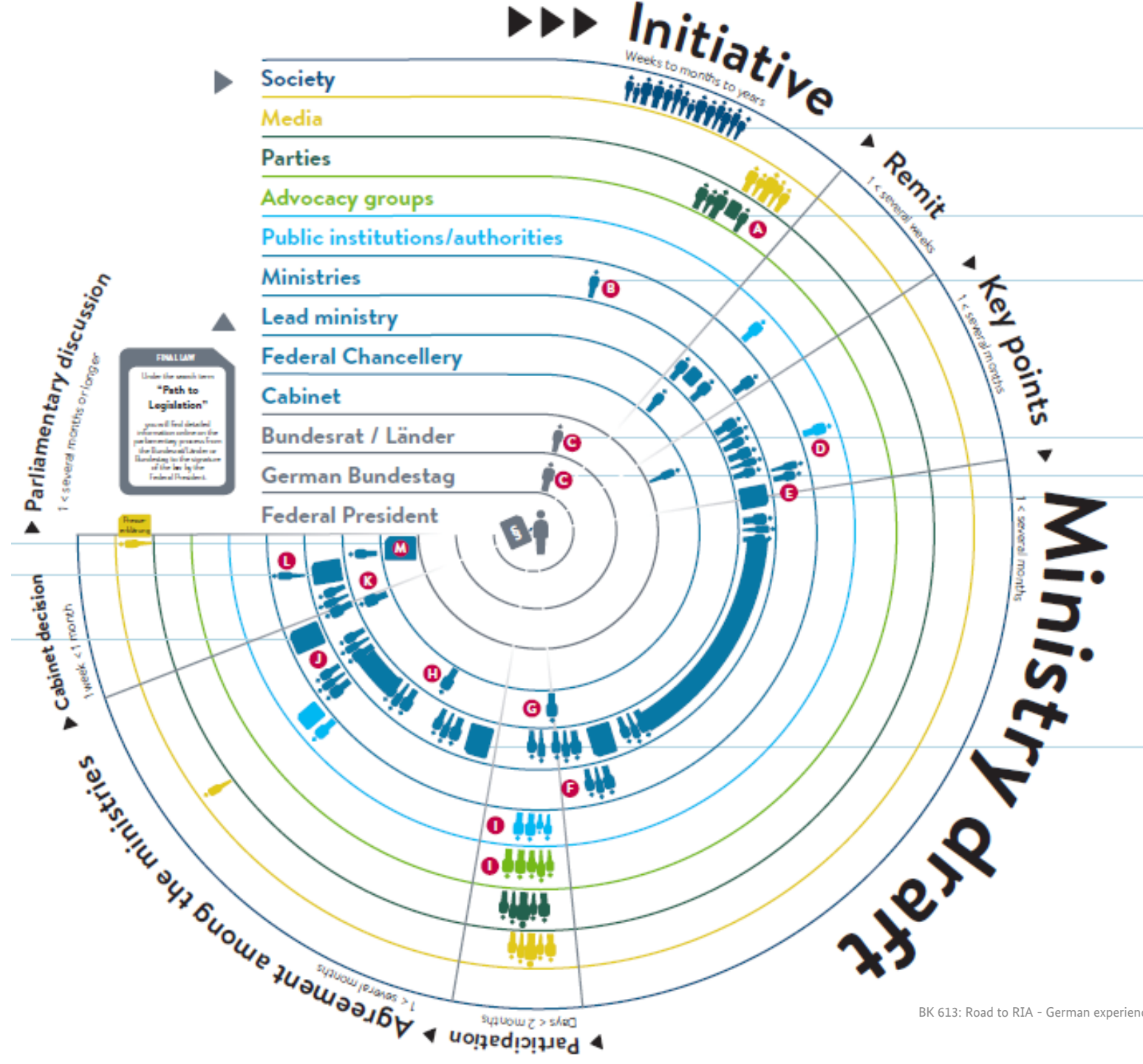
# Final proof of concept: Experience of stakeholders?

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







# Focal points of the recent working programme for better regulation

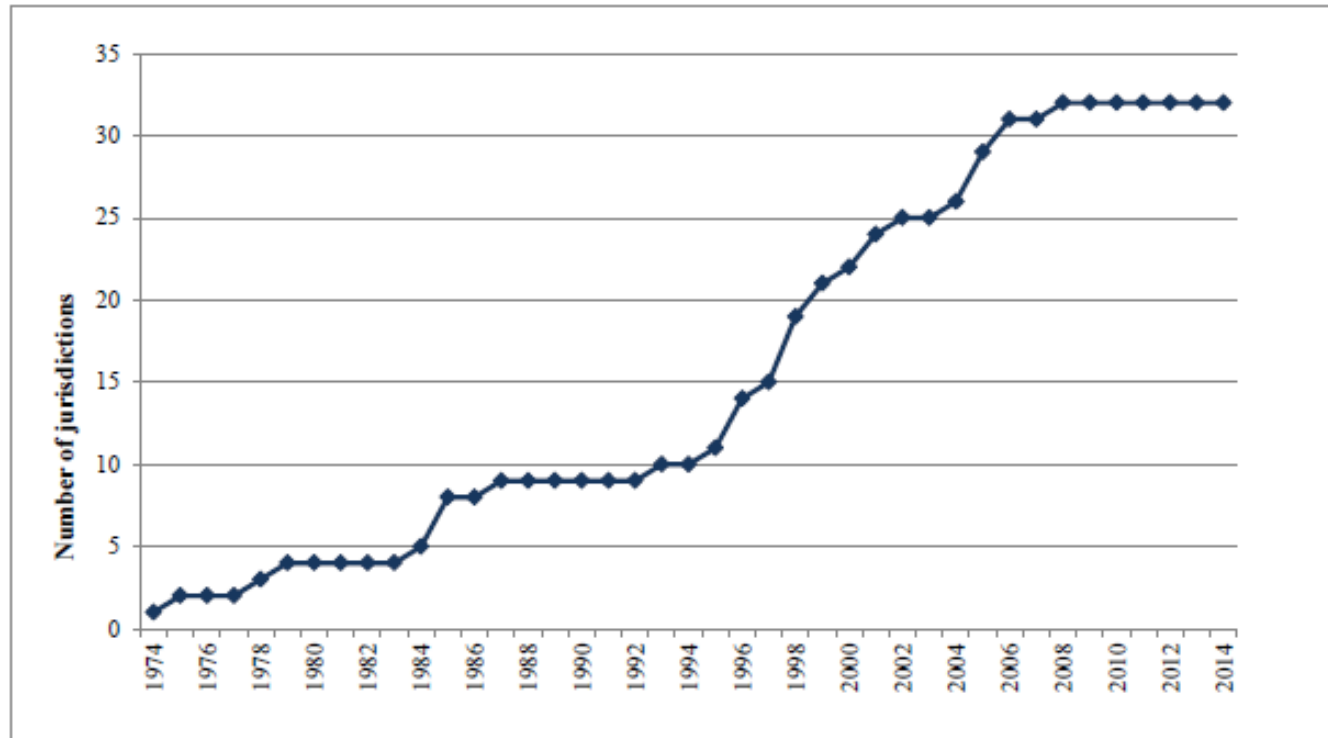
- Re-start of „one-in, one-out“
- Additional attention on implementation costs
- Reducing irritation by common commencement date, packaging initiatives
- Early and direct involvement of those concerned
- Implementing principles of human-centred design
- Pre-testing prior to political decision
- Early internal involvement of layer-linguists  
(prior to inter-service consultation)

# 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



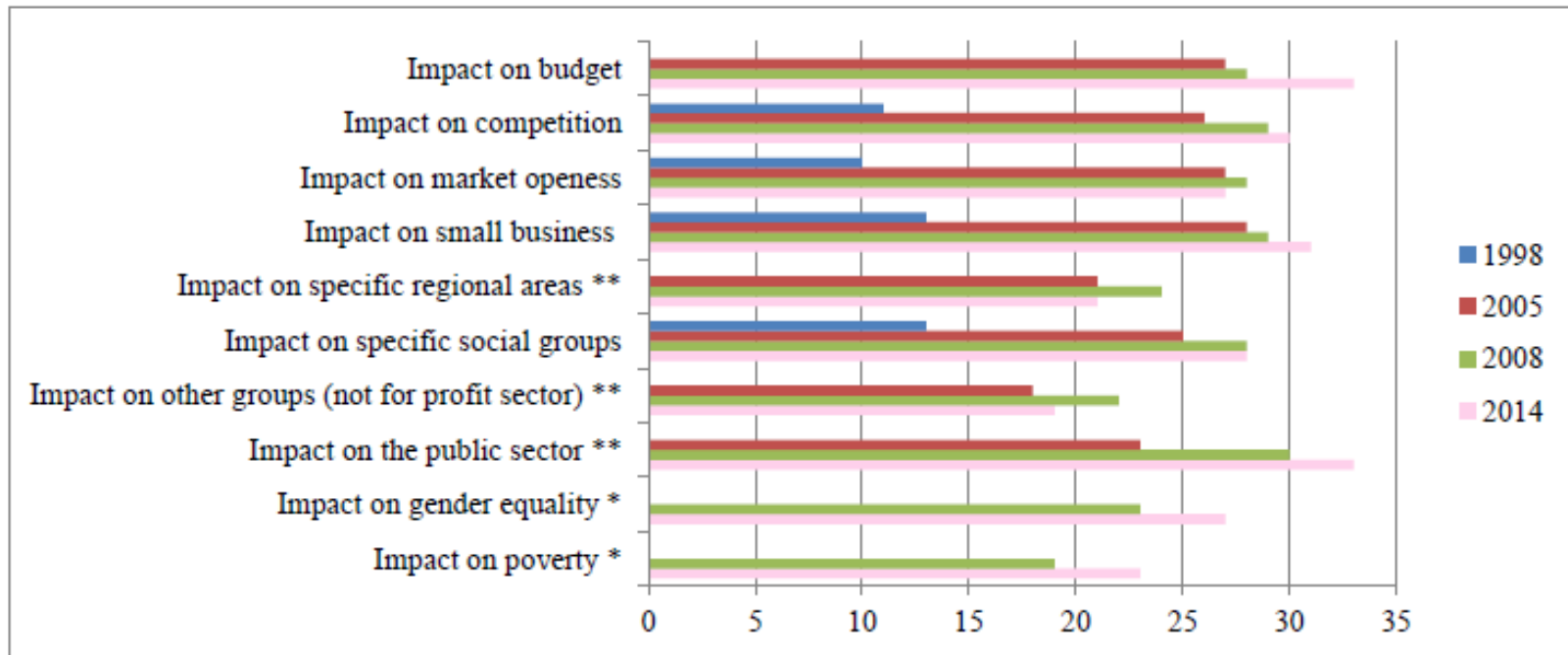
*Note:* This represents the trend in number of OECD jurisdictions with formal requirement for regulatory impact analysis (beyond a simple budget or fiscal impact).

*Source:* OECD (2015b), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris,  
<http://dx.doi.org/10.1787/9789264238770-en>.

*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



Note: Data for 1998 are not available for the European Union, Luxembourg, Poland and the Slovak Republic. This means that this figure is based on data for 27 countries in 1998, for 30 countries and the EU in 2005/2008 and for 34 countries and the EU in 2014.

(\*) No data available prior to 2008; (\*\*) No data are available prior to 2005.

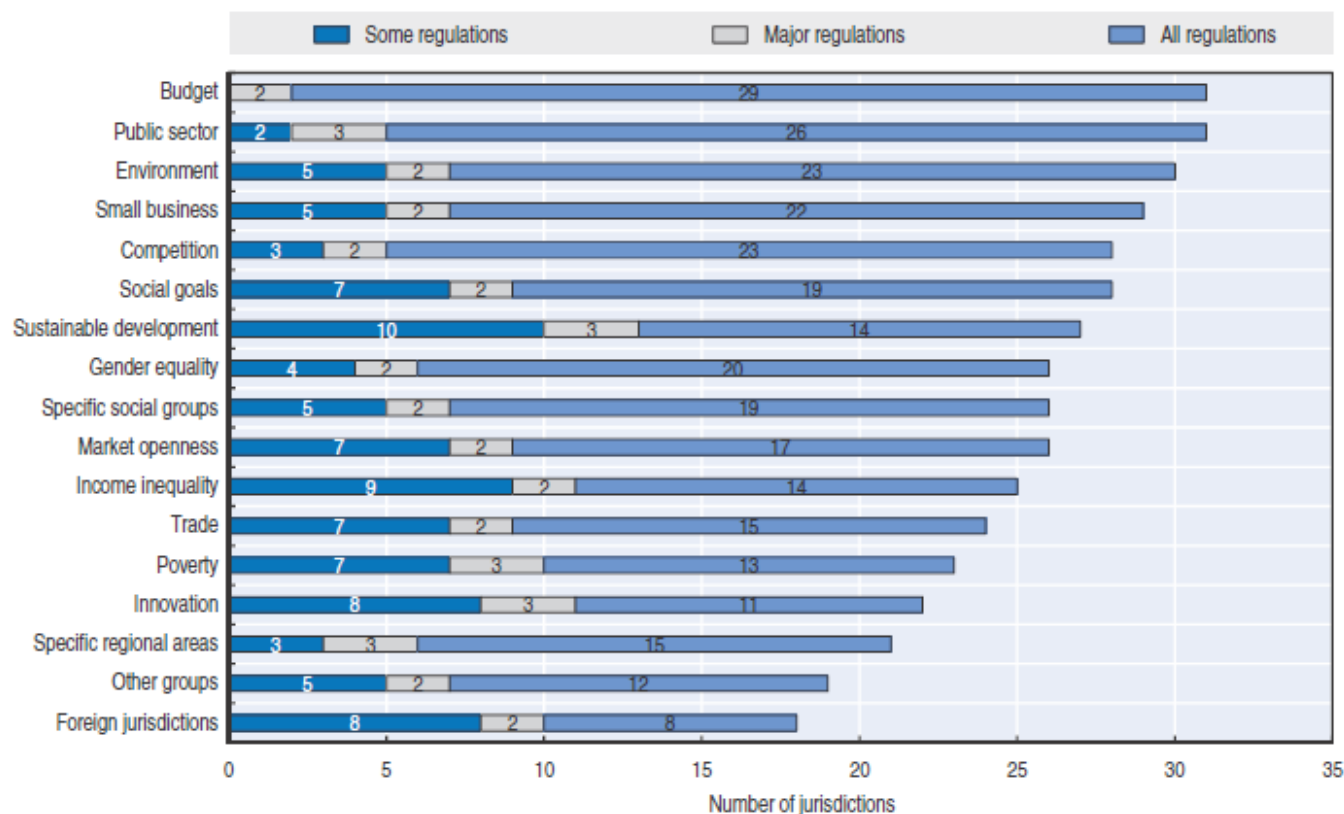
Source: OECD (2009b), Indicators of Regulatory Management System – 2009 Report, Regulatory Policy Committee, and 2015 Indicators of Regulatory Policy and Governance, [www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm](http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm).

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

Figure 4.10. Assessment of impacts in RIA



Note: Based on data from 34 countries and the European Commission.

Source: 2014 Regulatory Indicators Survey results, [www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm](http://www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm).

StatLink <http://dx.doi.org/10.1787/888933262942>

# Thank you for your attention!

## Contact

Federal Chancellery  
Better Regulation Unit  
Willy-Brandt-Str. 1  
D-10557 Berlin  
GERMANY

Stephan Naundorf  
buerokratieabbau@bk.bund.de  
Tel. +49 (0) 30 18 400-1360

[www.bundesregierung.de/Webs/Breg/EN/Issues/better-regulation/\\_node.html](http://www.bundesregierung.de/Webs/Breg/EN/Issues/better-regulation/_node.html)

[www.amtlich-einfach.de](http://www.amtlich-einfach.de)

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

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