Author: Dr. Jan-André Bühne

Contact details: Federal Highway Research Institute (BASt)
Brüderstr. 53, 51427 Bergisch Gladbach, GERMANY
Phone: +49 2204 43 419 Fax: +49 2204 43 695
E-mail: buehne@bast.de

REGULATORY COMPLIANCE COST ANALYSIS OF TRANSPORT LEGISLATION IN GERMANY

ABSTRACT

In comparison to the long tradition of socio-economic impact analyse of transport infrastructure investments in Germany since the 1970s, modifications of the legal framework regarding e.g. the behaviour of transport users and approval of vehicles have only partially been subject of a comprehensive impact appraisal so far. Recent developments in the enhancement of the German regulatory impact assessment scheme (RIA) try to improve the understanding of the impacts of government action and enhance the transparency of the process as well as the accountability of the administration.

The paper describes recent enhancement steps of the RIA in Germany. This covers the background in terms of the introduction of independent advisory bodies and the mandatory application of a new compliance cost appraisal. Since the start of the assessment of compliance cost in 2011, several changes of transport related regulations have been examined with regard to their burden for citizens, the business sector and the public administration. Using an actual example from road transport legislation the general procedure of the compliance cost analysis will be illustrated. The regulation for the introduction of transferable number plates gives a good insight of the applied assessment methodology. Furthermore it will be given a rough overview of other recent examples of road transport regulations, which have not been adopted yet and actually are presented to parliament for discussion. This includes the results for the revision of the Demerit Point System as part of the Road Traffic Act, .the implementation of the Cross Border Enforcement Directive and the change of the reregistering system of vehicles.

In a further step, the applied methodology will be critical reviewed from an economic point of view and recent initiatives for the enhancement of the ex-ante assessment methodology as well as the introduction of an ex-post evaluation will be discussed. Finally, an outlook will be given on how the current RIA methodology can be enhanced and refined in the future.

Keywords: Regulatory impact analysis, compliance cost, transport legislation

Research domain: Transport economics, policy and transport behaviour

1. INTRODUCTION

The basis and the available tools of impact analysis in Germany differ depending on the purpose and nature of the analysis. Since the 1970s impact analyses of transport infrastructure investments have been carried out within the framework of the Federal Transport Infrastructure Plan (FTIP). The FTIP, which is an integrated, intermodal plan which covers a planning period of about 15 to 20 years, constitutes the basis for the strategic transport infrastructure planning in Germany. Within this plan the Federal Government has to prove the profitability and necessity of investment projects, since only macroeconomically efficient projects with budgetary impacts are financed by federal funds according to the Federal Budgetary Regulations. In addition to the economic evaluation based on cost-benefit-analyses, all projects have to be assessed via an environmental and nature conservation analysis and a spatial impact assessment. The FTIP is adopted by the Federal Cabinet and is to be treated as recommendatory (BMVBS 2013). The German Parliament takes up these recommendations for federal trunk roads and federal railways and includes them in the Federal Railway Infrastructure Upgrading Act (BSWAG) and/or the Federal Trunk Road Upgrading Act (FStrAbG). Therefore, transport infrastructure investments run through a comprehensive ex-ante impact assessment before they are implemented.

In contrast to the administrative and legal implementation of infrastructure investments, modifications of the legal framework, e.g. regarding the behaviour of road users and approval of vehicles, have only partially been subject to a comprehensive impact appraisal so far. The implementation of a comprehensive regulatory impact analysis (RIA) for all transport related legislation initiatives can help to improve the understanding of the impacts of government action and enhance the transparency of the process as well as the accountability of the administration. Finally, it can reduce the bureaucracy burden for citizens, businesses and public authorities.

Normally, regulatory impact analysis of legislative measures in Germany has to be carried out for every new regulation initiated and coordinated by the Federal Government. Since 2006 the RIA procedure has been expanded substantially and improved by creating an independent advisory body (Nationaler Normenkontrollrat / National Regulatory Control Council) as well as a standardised method of measurement of administrative burdens for businesses imposed by information obligations. Additionally, a mandatory ex-ante assessment scheme for the whole compliance costs was introduced in 2011 in order to get a complete picture of the burden associated with (transport) regulations. The current regulatory compliance costs analysis scheme includes the measurable time and costs incurred by the citizens, the businesses as well as the public authorities through compliance with a provision under Federal law (NRCC 2012).

This paper describes the evolution and current status of RIA in Germany at first. In this context, the enhancement steps from 2006 until 2011 and their implications for the (transport) legislation procedure are illustrated briefly. The German RIA methodology will be illustrated by means of an example of a recently adopted new road transport regulation. The example concerns the simplification of the vehicle registration of cars using transferable number plates. Furthermore, an overview will be given of the results of several compliance cost analyses (e.g. the revision of the Demerit Point System as part of the Road Traffic Act), which have been conducted by the Federal Highway Research Institute on behalf of the Federal Ministry of Transport, Building and Urban Development. Finally, a forward looking perspective will be given on how the current RIA methodology can be enhanced and refined with the help of an ex-post evaluation and a potential benefit estimation tool for (transport) regulations.

2. EVOLUTION AND CURRENT STATUS OF RIA IN GERMANY

In general, regulatory impact analysis in Germany has to be carried out for every new regulation initiated and coordinated by the Federal Government. The Joint Rules of Procedure of the Federal Ministries (GGO), adopted in 2000, regulate the way how legislative work has to be conducted within the respective ministries (Bundesregierung 2011). The GGO defines the impacts under consideration within the RIA; however, in the past the GGO did not specify the methods which should be used in order to estimate the likely impacts of regulations. German RIA is supposed to cover the fields of administrative and budgetary burdens, sustainable development, side effects as well as the intended impacts of the new regulation. A guideline for conducting RIA (Leitfaden zur Gesetzesfolgenabschätzung) (Böhret and Konzendorf 2000) and an additional manual in a more practice-oriented manner (Bundesministerium des Innern 2009) provide a manual with guidelines for three different variants of regulatory impact assessment (ex-ante RIA of regulatory alternatives, accompanying RIA of a draft regulation, ex-post RIA after a certain time after implementation of the regulation). However, the documents give only recommendations for the use of various methods (e.g. cost-benefit-analysis, multi-criteria-analysis, cost-effectiveness-analysis) in order to identify, quantify and describe the above mentioned impacts. Since no defined impact analysis technique has been suggested for general use, due to practical limitations of personnel resources in the administrative authorities as well as because of the concern of political institutions to lose their independence in the regulatory process, a monetary estimation of benefits and costs was carried out only in a few cases (DBR 2004) and not systematically in the whole legislative process.[1] Cases with complete cost-benefit analyses were especially applied for regulations in the area of healthcare (e.g. approval of new drugs), environmental issues (e.g. flood protection measures), education policy (e.g. apprenticeship training) and investment decisions regarding the transport infrastructure.

Nevertheless, in order to specify the scope and execution of regulatory impact analysis as well as to support a further reduction of bureaucracy caused by regulations, the Federal Government adopted a new programme for the reduction of bureaucracy and better regulation in 2006 (Bundesregierung 2006). The programme included several institutional innovations as well as first steps to improve the RIA methodology. Since 2006 the programme has been expanded by the responsible State Secretaries' Committee on Bureaucracy Reduction a couple of times. The main innovations and steps towards bureaucracy reduction and better regulation are explained below:

[1] Furthermore, some judicial sources mention constitutional concerns regarding a general use of cost-benefit analyses as a main decision variable for the legislator (Wittberg et al. 2013).

- The initial programme from 2006 aimed at assigning a responsible institution for the coordination and technical implementation tasks of bureaucracy reduction measures. The Federal Government assigned the coordination tasks to the Minister of State to the Federal Chancellor, who chairs the State Secretaries' Committee on Bureaucracy Reduction. For the technical implementation of the government programme and support of all federal ministries a Better Regulation Unit at the Federal Chancellery was installed (Federal Government 2012). Furthermore, based on the Act on the Establishment of a National Regulatory Control Council (NKRG), the government established the Nationaler Normenkontrollrat / National Regulatory Control Council (NKR / NRCC) as an independent advisory body to apply, monitor and further develop a standardised measurement methodology of the bureaucracy costs of legislation (NRCC 2009). The responsibilities are comparable to the ones held by national organisations in other European countries such as the ACTAL in the Netherlands, the Regulatory Policy Committee in UK or the Regelradet in Sweden. On the basis of the internationally accepted Standard Cost Model (SCM), which is commonly used to determine the administrative burdens for businesses imposed by information obligations stemming from regulations (SCM Network 2005), the NRCC developed a manual in cooperation with the Federal Statistical Office. Since 2006 the NRCC observes its application by the ministries and monitored a quantitative net reduction target of red tape of 25% until the end of 2011, which was set up by the State Secretaries' Committee on Bureaucracy Reduction in 2007 (Federal Government 2012). The existing overall annual burden of 49.3 billion Euro for the business sector (2006), which was based on the measurement of 9,468 information obligations from national laws and regulations, could be cut by 12.3 million Euro annually (-25%) even taking also new administrative costs into account until the end of 2011.

- In order to get a more complete picture of the burden associated with regulations and not taking only administrative costs derived from information obligations into account, the ex-ante assessment was enhanced by the inclusion of compliance costs in 2011. Accordingly, the mandate of the NRCC has been substantially expanded by compelling the federal ministries to quantify the total measurable compliance cost for every new draft regulation (Federal Government 2012).

  Since 2011, the measurable time and costs (excluding direct payments such as taxes) incurred by the citizens, the business sector and public authorities for those activities required by the national legislator that would not have occurred in the absence of the new regulation have to be determined (NRCC 2012). Within this ex-ante RIA approach, the NRCC or NKR assesses each new proposal for a regulation regarding the administrative burdens and compliance costs (see figure 1). The impact calculation of each regulation conducted by the respective ministry is an integral part of the legisla-

tive note which covers the compliance costs including the costs resulting from information obligations (Bühne 2012). The methodology applied is based on the new Guidelines on the Identification and Presentation of Compliance Costs in Legislative Proposals by the Federal Government.

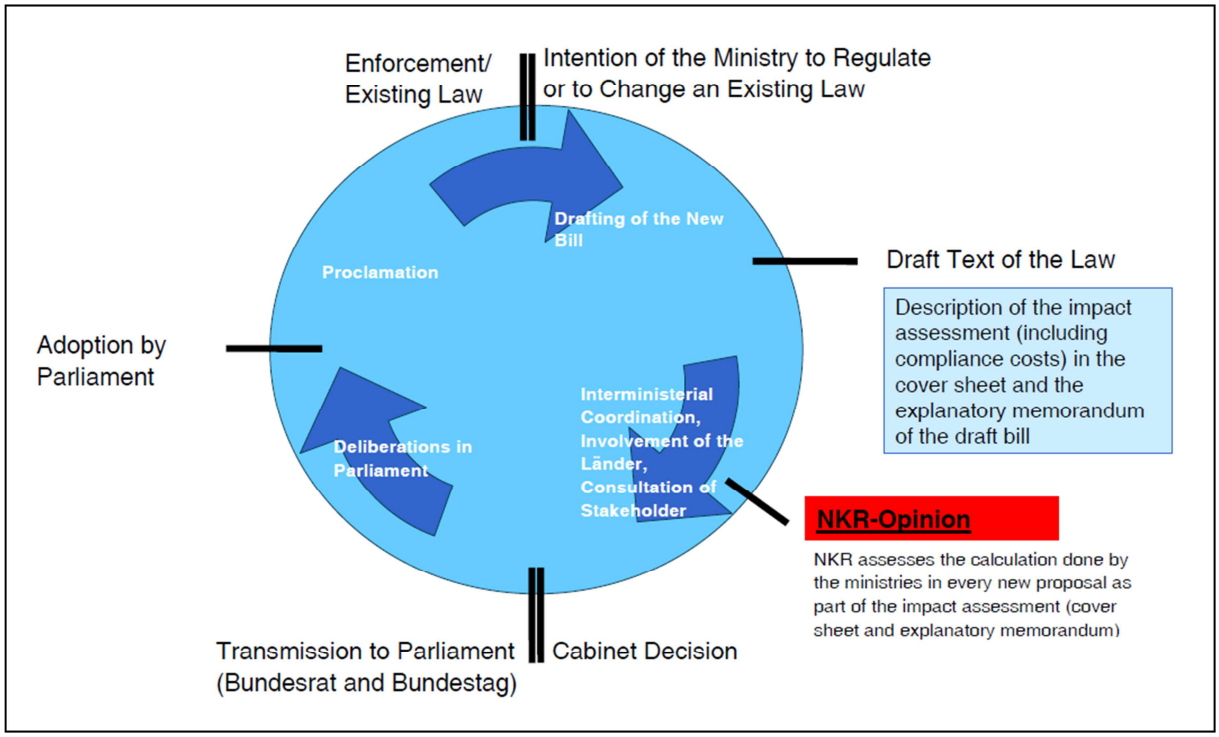


Figure 1: Ex-ante procedure of RIA in Germany as important part of the legislation process (Catenhusen 2012)

The NRCC examines the calculations in terms of comprehensibility and correct use of methodology as well as the description of other costs to businesses and small and medium-sized enterprises (Catenhusen 2012). The formal opinion of the NCCR is attached to each cabinet draft and is passed on to the parliament and the Federal Council in the further steps of the legislation process. Experiences show a much higher attention of the respective ministries to the potential costs of new regulations (Limon-Wittmann 2011).

The development of compliance costs from July 2011 until the end of 2012 (see Figure 2) shows that the majority of the 440 examined draft regulations lead to an annually increase of compliance cost. On balance an additional annually financial burden of 1.3 billion Euro has been generated for businesses and public authorities since 2011. It is expected that this trend will continue in the future (NRCC 2012). Since the compliance costs of the citizens have been comparatively moderate so far, they are not included in the figure.

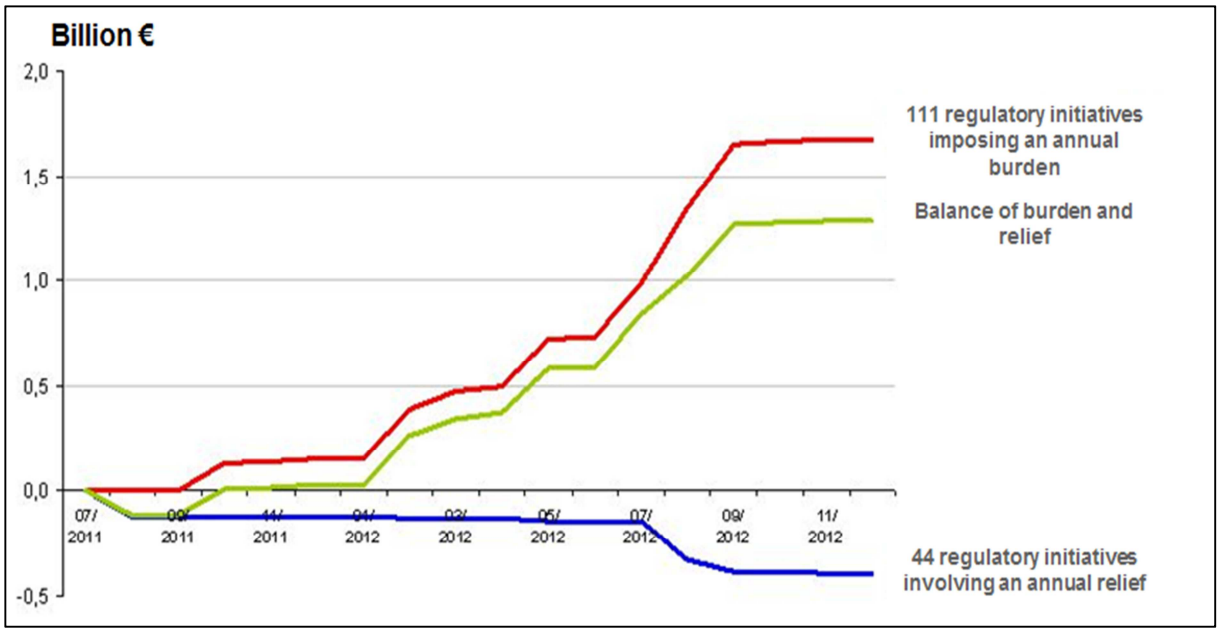


Figure 2: Development of the annual compliance costs of the business sector and public authorities as a whole since 1 July 2011 (NRCC 2013)

As described above, the RIA procedure in Germany has been expanded and improved considerably in the last couple of years. The Organisation for Economic Cooperation and Development (OECD) has praised the Federal Government's Programme for Bureaucracy Reduction and Better Regulation in its last Review on Better Regulation in Germany published in 2010 (OECD 2010). They valuated the establishment of an independent advisory body and the obligatory estimation of administrative burdens for businesses imposed by information obligations as very positive. Nevertheless, the OECD also stressed the point that the programme puts too much emphases on the assessment of the costs and their decrease, whereas the benefit analysis is lagging behind. If the step-wise enhancement of the German RIA scheme continues, a further refinement of the ex-ante assessment as well as an obligatory ex-post evaluation could be the next improvements (see also chapter 4).

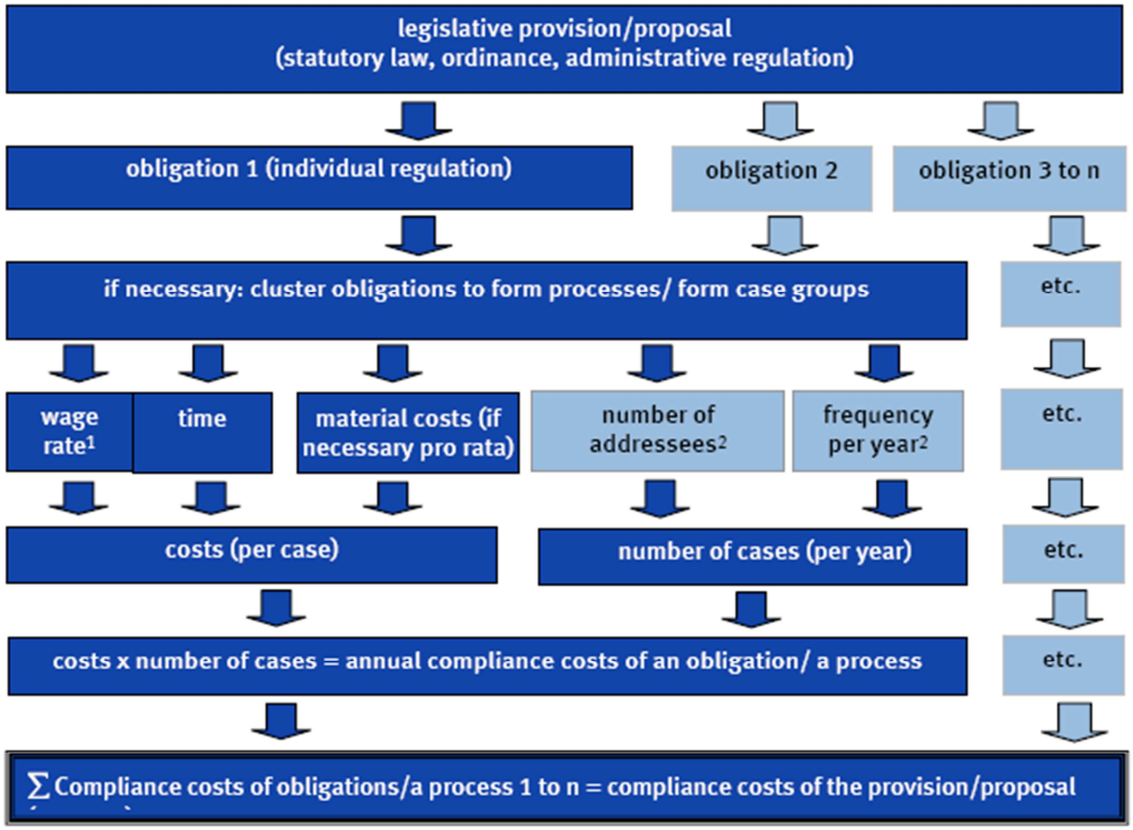
3. COMPLIANCE COST ANALYSIS OF LEGISLATION PROPOSALS IN ROAD TRANSPORT

Since the start of the assessment of compliance cost in Germany in July 2011 several changes of transport related regulations have been examined with regard to their burden for citizens, the business sector and the public administration. Using the official guidelines for the assessment of compliance cost published by the Federal Statistical Office, the Federal Highway Research Institute has determined (on behalf of the Federal Ministry of Transport, Building and Urban Development) the compliance costs of several new road transport regulations. Recent examples incorporate the simplification of the vehicle registration of cars using transferable number plates and the revision of the Demerit Point System as part of the Road Traffic Act. The general assessment procedure of compliance costs is illustrated and explained by the example of the simplification of the vehicle registration of cars using transferable number plates, which has already been adopted. Finally, an overview of various compliance cost estimations of road transport regulations is presented at the end of the chapter.

REGULATORY COMPLIANCE COST ANALYSIS OF THE INTRODUCTION OF TRANSFERABLE NUMBER PLATES FOR MOTOR VEHICLES

Via modifications of the German vehicle-admission-ordinance (Fahrzeug-Zulassungsverordnung, FZV) and other road traffic rules as well as the German statutory order on compulsory motor vehicle insurance, the preconditions for the introduction of transferable number plates were created in 2011 (Bundesrat 2011). The new transferable number plate can be used for two different vehicles alternatively, which should provide more flexibility for the vehicle usage. The new transferable number plates complement the existing possibilities such as the use of seasonal license plates. The German transferable number plate system is a modified version of the Austrian scheme.

The procedure to estimate the compliance cost initiated by the regulation for the introduction of transferable number plates follows a simplified approach according to the SCM (see figure 3). First of all, all obligations contained in the draft regulation have to be identified. Obligations are individual provisions including direct changes in costs, time expenditure or both for the respective stakeholders (Federal Government, NRCC, Federal Statistical Office 2012). The second step comprises the identification of the change in the number of cases per obligation, the costs of each case as well as the total change in compliance costs for the stakeholders. Finally, all results have to be documented in the introductory summary and the explanatory memorandum of the draft regulation.



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).

Figure 3: General identification pattern for compliance cost estimation (Federal Government, NRCC, Federal Statistical Office 2012)

Based on the possibility to apply for such a new transferable number plate, several different obligations for the three stakeholder groups (citizens, businesses, public authorities) were identified. In the following, the evaluation steps for the respective obligations will be explained:

Citizens

The first identified obligation for the citizens is the application for registration of a vehicle with transferable number plates. It has to be differentiated between the number of cases for one-time changes of the vehicle stock and the number of cases for annual new registrations. The estimation of the number of cases is based on the number of vehicle owners who are potentially interested in a change of their vehicle registration. As an orientation the actual usage of vehicles for different purposes as leisure, vacation and other limited periods can be used, which are right now registered via seasonal number plates. The average number of cars with seasonal number plates for the last five years was approximately 569 thousand vehicles. 96.4% (549 thousand) are used for private purposes and 3.6% (20 thousand) for business purposes. Furthermore, it is anticipated that the share of new registrations with transferable number plates will be the same one as for seasonal number plates (54 thousand per year including 2,000 registrations for business purposes). Based on these estimated number of cases the one-time adjustment costs and annual compliance were determined:

- Based on expert guesses from personnel of German motor vehicle registration offices, the time expenditure for one registration process with transferable number plates takes 40 minutes on average. Taking the number of 549,000 vehicles into account, one-time adjustment time expenses of 366,000 hours arise for citizens (549,000 x 40/60 h = 366,000). The production of two-part transferable number plates is more complicated technically. An internet investigation of several number plate manufacturers showed an average price of one ordinary number plate of 10 Euros. Considering two necessary number plates plus costs for vehicle related additional small plates, the total cost per registration of transferable number plates would be 40 Euros per case. In total, one-time adjustment material costs of appr. 22 million Euro accrue (40 € x 549,000 = 21,960,000 €).
- It is assumed that the time expenditure for the annual new registrations with transferable number plates is the same as for obligatory number plates, which would have been applied anyway. Therefore, no additional time expenses arise per case and material costs will only accrue for the vehicle related additional small plates of 20 Euros. The total annual material cost for appr. 52,000 new private registrations are estimated at 1,040,000 Euro.

The second obligation for the citizens results from the required change of number plates between the vehicles before driving. Based on the assumptions of appr. two changes per week (100 changes per year) and 5 minutes per change, appr. 8,5 hours time expense accumulate

for each person annually (100 x 5/60 h = 8,3 h). Taking the case number of 549 thousand vehicles into account yearly time expenses for all citizens of appr. 4,667,000 hours arise (549,000 x 8,5 h = 4,666,500).

Business sector

The first obligation for the business sector relates to the necessary changes in data management and adjustment of insurance contracts within the insurance industry. 217 insurance companies and the German Insurance Association have to adapt their inventory management system for claims and calculations to the introduction of transferable number plates. Expert guesses from the German Insurance Association estimate a time expense of 360 hours per company for this purpose. By using the average wage rate of a medium qualified employee of the financial intermediation services from the Federal Statistical Office one-time adjustment costs of appr. 3 million Euro result (218 x 360 h x 37.60 €/h = 2,950,848 €). For the adjustment of the insurance contracts, 30 minutes of a low qualified employee are needed per case. The adjustment of all 569 thousand contracts leads to one-time adjustment costs of 7 million Euro in total (569,000 x 30/60 h x 24.70 €/h = 7,027,150 €).

The sign manufacturers have to modify and adapt their machines and tools for the production of the new number plates (450 € per new tool). This results in one-time adjustment costs of 1.1 million Euro for 2,500 embossing offices in Germany (2,500 x 450 € = 1,125,000 €).

The one-time adjustment costs for business vehicles was calculated based on the average number of seasonal number plates for business purposes (20,000). Taking personnel costs of 30.20 €/h and 40 minutes per application of a transferable number plate and material costs of 40 Euro per case into account ([20,000 x 40/60 h x 30.20 €/h = 402,667 €] + [40 € x 20,000 = 800,000 €]) the total costs have been estimated to be appr. 1.2 million Euro. In total one-time adjustment costs for the whole business sector of 12.3 million Euro accumulate.

The annual compliance costs for the business sector were calculated similar to the citizens. Due to 2,000 new registrations with transferable number plates per year and material costs for the vehicle related additional small plates of 20 Euro per case, 40,000 Euro arise for the business sector annually. Assuming 100 changes of the number plates per year, 5 minutes per change, 20,000 cases and a wage rate of a low qualified employee (19.30 €/h for all business sectors) leads to appr. 3.2 million Euro per year (20,000 x 5/60 h x 19.30 €/h x 100 = 3,216,665 €).

In total, the business sector has to carry a financial burden of 3.2 million Euro annually and 12.3 million Euro for one-time adjustment costs.

Public authorities

The compliance costs of public authorities were differentiated between federal and state/municipal authorities. On the federal level a one-time adjustment of the Central Vehicle Register at the Federal Motor Transport Authority (KBA) was necessary. The estimated time expenditure was 640 hours which will be generated by employees from the higher intermedi-

ate service grades (32.10 €/h). This results in 21,000 Euro one-time compliance costs at the KBA.

At the municipal level, one-time adjustment costs arise at the vehicle registration offices (423 cases). Activities for preparing the introduction of new transferable number plates and changes in the local vehicle registers (8 h per office) and training courses of the relevant employees (25 employees à 4 h, lower intermediate service grades: 24.30 €/h) generate one-time compliance costs of appr. 1.1 million Euro (108 h x 423 x 24.30 €/h = 1,110,121 €). Additionally, the applications of registration changes of the existing vehicle stock (569,000) have to be processed. A wage rate of 24.30 €/h and 40 minutes time expenditure lead to appr. 9.2 million Euro one-time compliance costs.

The annual compliance costs result from the application handling of new registrations with transferable number plates. Compared to an obligatory registration, the new process needs 5 minutes more per case. That means additional annual costs of 109,000 Euro for 54,000 registrations per year (54,000 x 5/60 h x 24.30 €/h = 109,350 €).

In total, the public authorities have to carry a financial burden of 10.3 million Euro one-time adjustment costs and 109,000 Euro annual compliance costs.

Table 1 gives an overview of the different one-time adjustment costs and annual burdens for the respective stakeholders. All values are included in the compliance cost explanation in the draft regulation. Since changes in taxes, fees and or burdens resulting from rising prices are not included in the compliance cost section, they are included in the separate chapter “other costs” of the explanatory memorandum of the draft regulation (see below)

Table 1: Overview of compliance costs for the introduction of transferable number plates

Compliance cost for a regulation of transferable number plates					
		Citizens	Business sector	Public authorities	
				Federal	States/ Municipalities
One-time adjustment costs	time (citizens) / staff cost (businesses, public authorities)	366,000 h	10,400,000 €	21,000 €	10,300,000 €
	material cost	21,960,000 €	1,925,000 €	-	-
Annual costs	time (citizens) / staff cost (businesses, public authorities)	4,667,000 €	3,200,000 €	-	109,000 €
	material cost	1,040,000 €	40,000 €	-	-

Other costs

It should be borne in mind that not all burdens imposed as part of the compliance of the regulation are included in the calculations above. Certain expenses such as the fees levied for services rendered by public authorities or burdens resulting from rising prices are not taken into account by definition (NRCC 2012).

Moreover, in the course of introducing the transferable number plates. the scale of fees and charges for road traffic related services had been adapted. Therefore, citizens and businesses have to carry an additional financial burden besides the estimated compliance costs.

Taking into account the fees for the registration of a vehicle (26.30 €), for issuing a transferable number plate (3 €), for a main inspection sticker per vehicle (0.50 €) and a stamp tag showing the State emblem, the total amount of fees for changing vehicles from stock to transferable number plates is appr. 65 €. For a new registration of a vehicle with transferable number plates, only the fees for the new vehicle have to be counted. In this case the fees are 36 € per registration.

The citizens have to bear one-time adjustment fees of appr. 35.7 million Euro (549,000 x 65 € = 35,685,000 €) and annually fees of appr. 1.9 million Euro (52,000 x 36 € = 1,872,000 €)

For the business sector one-time adjustment fees of 1.3 million Euro (20,000 x 65 € = 1,300,000 €) and annual fees of 72,000 Euro (2,000 x 36 €) arise.

OVERVIEW OF VARIOUS COMPLIANCE COST ESTIMATIONS OF ROAD TRANSPORT REGULATIONS

In the following an overview of several compliance cost estimations is given which have been conducted recently by the Federal Highway Research Institute on behalf of the Federal Ministry of Transport, Building and Urban Development (see figure 4). Due to the practical reasons only a rough description of the different cases is given here. The results show that, similar to the development of all examined regulations by the NRCC, most draft regulations will lead to an increase of compliance costs for the respective stakeholder group. Only the change of the reregistering scheme has a relieving impact:

- The change of the German Demerit Point System, which is currently discussed in parliament, affects a large number of persons recorded in the Central Register of Traffic Offenders. The compliance cost calculations include the time effort and costs of the citizens recorded in the Central Register of Traffic Offenders which could result from the completion of educational measures imposed by the local authorities. In total the change of the Demerit Point System leads to a one-time adjustment for all addressee groups. Nevertheless, annually savings can be generated at the Federal Motor Transport Authority.

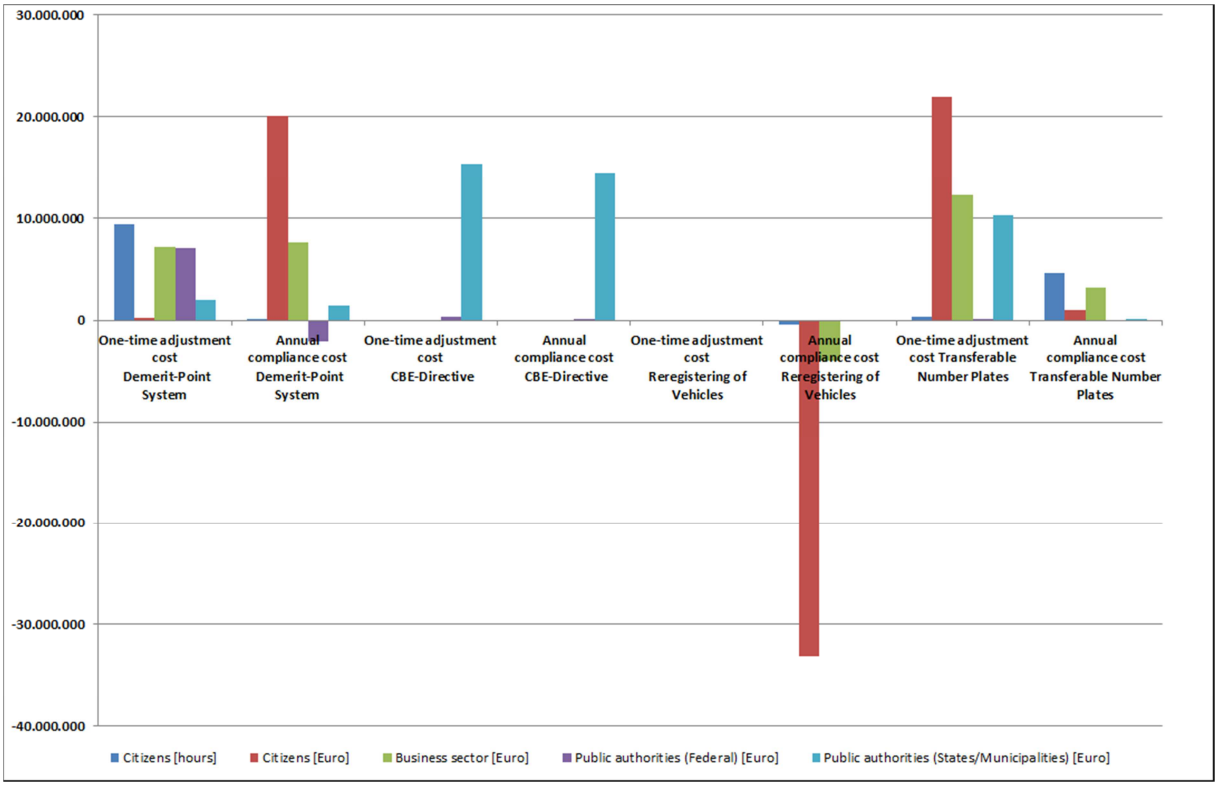


Figure 4: Overview of estimations of compliance costs of selected transport regulations (own figure)

- The implementation of the Cross Border Enforcement Directive from the European Commission, which will enable a better cooperation of national authorities in order to facilitate cross-border enforcement in the field of road safety, into national law has only major impacts for the municipal public authorities.
- The change of the reregistering system will lead to a substantial reduction of annual compliance costs for the citizens since these will get the opportunity to waive a new number plate when a change of residence or a change of the vehicle owner takes place.
- As described above, the introduction of transferable number plates will result in relatively high one-time adjustment costs for all three groups (citizens, business sector, public authorities). The annual financial burden can possibly be compensated by lower insurance premiums which could not be quantified during the analysis.

4. ENHANCEMENT OF CURRENT GERMAN RIA SCHEME

The previously presented enhancements of the German RIA constitute a valuable contribution to improve German (transport) legislation and can be used to guarantee a more transparent and efficient legislative procedure. Nevertheless, the ex-ante assessment of compliance costs for the private and business sector as well as the governmental side is not sufficient from an overall economic point of view. The analytical requirements of the current RIA analysis in Germany are limited and focused only on the cost side of certain stakeholders because these effects are usually more easily estimable. But in order to get a complete picture of the consequences of a new transport regulation, the ex-ante assessment should not only consider the cost side of certain stakeholders but should also attempt to quantify the benefits of legislative changes on a society level.

Thus, compliance cost analysis has to be regarded as a very useful initial step, but it should always be treated as only partial information within a broader efficiency analysis framework (Bühne 2012). In order to get a complete picture of the impact of legislative changes the further development of the RIA should go in the direction of a benefit-cost analysis (BCA), which is based on well-established principles from welfare economics (OECD 1997) and has been used by default in several countries as well as the EU (Torriti and Löfstedt 2012) in their impact assessments for many years. In any governmental decision from infrastructure investment planning to changes of behaviour related legislations, the costs of action should be paid for or compensated by the expected economic, environmental and social benefits. Since most regulation changes are attempting to lower the level of bureaucracy, the positive effects should also be assessed in monetary terms and compared to the resulting costs. Wherever a quantification of sustainable development aspects such as environmental and social impacts is not possible, at least a qualitative estimation of these has to be given as the impact assessment guidelines of the EC stipulate for EU legislation (EC 2009). Furthermore, the calculations should not only be based on estimated or assumed unitary values but on a possible range of values. Scenario or sensitivity analyses would provide a better insight on the impacts of different alternative regulations or on influencing framework parameters which are connected to the respective regulation. Nevertheless, the limitations and assumptions of each socio-economic analysis should be clearly reported in order to enhance the transparency and accountability of the legislative process.

A second important step for the enhancement of the legislation procedure in Germany is the introduction of an ex-post analysis of new regulations after their implementation. Only the comparison of ex-post results with the estimated ex-ante impacts of new regulations can show major deviations and therefore give the opportunity to improve the tools for the ex-ante analy-

sis of costs and benefits. Recent developments in the field of bureaucracy reduction and RIA by the German Federal Government show signs that both aspects, the enhancement of the ex-ante estimation as well as the introduction of ex-post assessment, will be addressed properly:

- Based on a cabinet decision from March 2012 on the work programme for better legislation the State Secretaries' Committee for bureaucracy reduction recently agreed on a concept for the ex-post evaluation of all new essential regulations (Bundesregierung 2012). According to the terms of the Joint Rules of Procedure (GGO), the ministry in charge of a new regulation has to determine in the explanatory statement if and when the intended impacts and side effects as well as the ratio between generated costs and outcome will be evaluated. In compliance with this new procedure, all essential regulations (acts, legislative decrees, administrative regulations) have to contain statements about the realisation or non-realisation of an ex-post evaluation. A draft regulation is considered as essential if the ex-ante annual compliance cost estimation exceeds a certain threshold (≥1 million € material cost or ≥100,000 hours expense for citizens or ≥1 million € for business sector as well as public authorities). In certain cases when an evaluation is not enforced because of court decisions or due to the implementation of EU requirements such that the evaluation can be dispensed with despite the exceeding of the thresholds. An evaluation will also take place if an ex-post examination of the compliance cost, which will be carried out by the German Federal Statistical Office two years after the implementation of the new regulation, exceeds the aforementioned thresholds. The main evaluation criterion is the target achievement of the regulation. Additional evaluation criteria can be positive or negative side effects, acceptance, practicability as well as the ratio between generated costs and outcome. The scope of the evaluation report, which will be generally published 3-5 years after implementation of the regulation, is not prescribed or specified (e.g. internal vs. scientific evaluation, two pages vs. extensive report). The evaluation report will be transferred to the ministries concerned, the Federal Government Coordinator for Bureaucracy Reduction and Better Regulation as well as the NRCC.
- A recently published study on behalf of the Federal Ministry for the Environment, Nature Conversation and Nuclear Safety concentrated on the development of a Standard Benefits Model like the international approved tool SCM. Similar to SCM the national centre for bureaucracy reduction of the university of applied science Bielefeld [Fachhochschule des Mittelstands (FHM)] developed a scientific proposal for the ex-ante benefit estimation of regulations (Wittberg et al. 2013). The benefit estimation tool comprises the assessment of sustainable benefits such as economic, environmental and social aspects similar to the EU Impact Assessment Guidelines from 2009. For each of the three sustainability aspects several indicators are identified (e.g. public debt, GDP per capita, resource conservation, greenhouse gas emissions, employment etc.), which will be amalgamated compensatorily via a Multiple-Attribute-Decision-Making Model

(MADM). In the end the result of the sustainability assessment is displayed on a scale from minus 3 to plus 3. It is important to mention that the authors define benefits in the study as a situation which matches the intention of the regulation better than the state without this regulation. They argue that pure economic welfare criteria are not in line with the German constitution since the legislator has the only right to define the aim and therefore the benefits of a regulation and not economists who are usually calculating benefit-cost-ratios.

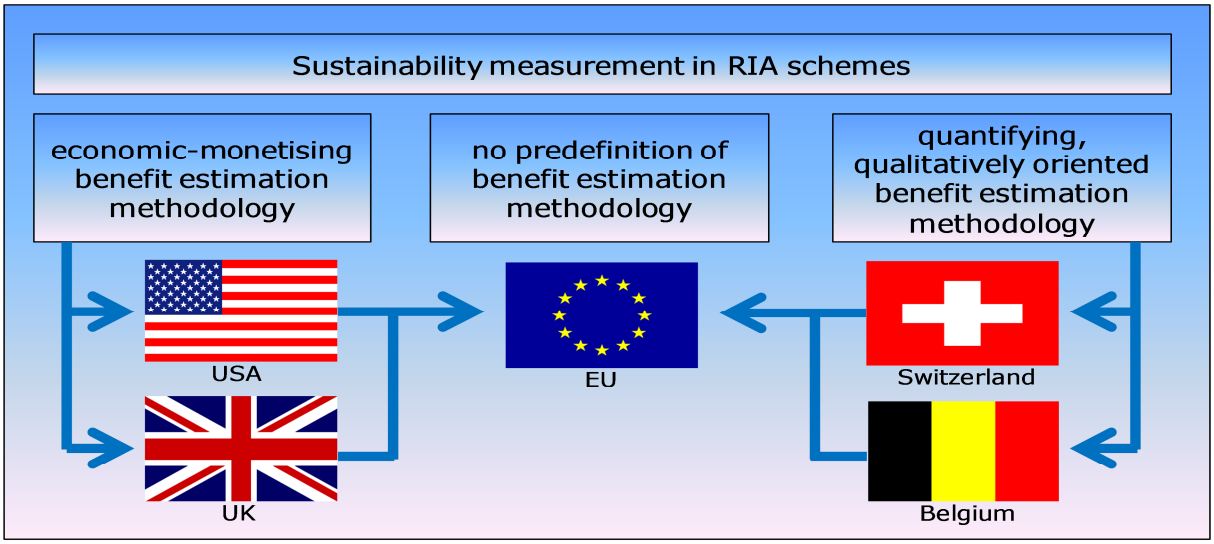


Figure 5: Overview of sustainability measurement in RIA schemes of selected countries (Wittberg et al. 2013)

Therefore, the authors follow more the continental European understanding of a sustainability measurement which is in contrast to the Anglo-Saxon tradition of assessing benefits and costs in monetary terms (see figure 5). By using the quantifying but not monetising approach of sustainability measurement from Switzerland as a Role Model, a comparison of the monetised estimates from the compliance cost analysis with the benefits of the Standard Benefits Model is not possible. It has to be questioned from an economic point of view how far the outcomes of such a non-monetising multi-criteria approach can enhance the efficiency of legislation. Furthermore, it has to be seen if the administrative burden of the application of this rather pragmatic method will prohibit the obligatory use for new regulations.

Overall, the comprehensive character of BCA and MADM as ex-ante and ex-post RIA methods is often accompanied by criticism about the complexity and cost of such an assessment. The estimation of some important benefit components is often more complex and accompanied by uncertainty. Practical judgements about the feasibility and costs of the performance of BCA or MADM should therefore also be considered. Finally, an empirically-based and economic-orientated regulatory impact analysis should not be considered as a technocratic tool but rather as a valuable supporting measure for balanced decision making and for more transparency during the legislation process (OECD 1997).

5. CONCLUSION

The enhancement of the RIA methodology in Germany is a continuous process of improvement and adding of new assessment techniques. Despite a lot of positive developments within the German RIA scheme still major issues regarding the impact assessment of new regulations have to be addressed in the future. The key conclusions of the description and analysis of the German RIA scheme and its application in road transport legislation can be summarised as follows:

- Besides of existing legally agreed rules on how to proceed within RIA, a systematically use of socio-economic analysis tools during the legislative process has not been the case in the German administration so far.
- The step-wise introduction of different analysis steps (1. Assessment of information obligations → 2. Compliance cost estimation → 3. Ex-post evaluation → 4. Benefit assessment tool or CBA?) has shown a gradually better understanding of the importance of RIA in the administration and put public pressure on the involved ministries to conduct compliance cost analyses regularly. More and more, economic impacts of regulations are a "habit of mind" during the legislation process.
- The transparency has been increased significantly since the results from the compliance cost analyses are a vital and important element of the public discussions of draft regulations. The public opinion and experts have a first indication what the economic impacts of the respective regulation would be for the stakeholder groups of citizens, businesses and public authorities.
- As shown in the calculation and documentation of the comparatively simple example of the introduction of transferable number plates, the research effort of a draft regulation can be high even if sophisticated scientific standards are not applied. It has to be considered that the ministries, which are responsible for the impact analysis, are equipped with the necessary qualified personnel in order to conduct reliable and adequate estimations.
- Nevertheless, taking only the cost side into account and neglecting the benefit side could give an unbalanced view on the impacts caused by (transport) regulations. From an economic point of view it would be better to monetise all impacts and compile a benefit-cost ratio to assess the socio-economic profitability of a new regulation.
- It seems also critical that assumed unitary values rather than a possible range of values are used in the RIA scheme. Also scenario or sensitivity analyses would provide a better insight on the impacts of different regulation alternatives or on influencing framework parameters, which are connected to the respective regulation.

- An enhancement of the limited compliance cost analysis towards an comprehensive ex-ante assessment as well as an ex-post evaluation of costs and benefits is desirable. Finally, also a rather qualitative multi-criteria analysis of the benefits could be a further improvement of the RIA scheme in Germany.

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