

Policy

to increase transparency on adjustment costs for business
and their effective and proportionate limitation

Decision of the State Secretaries' Committee on Bureaucracy
Reduction of 26 November 2019

Policy

to increase transparency on adjustment costs for business and their effective and proportionate limitation

Decision of the State Secretaries' Committee on Bureaucracy
Reduction of 26 November 2019

Contents

1	Preliminary remarks	4
2	Qualitative approaches to limit adjustment costs	5
	2.1 Cross-category levers	5
	2.1.1 Provide for sufficiently long implementation periods/optional implementation/regulations to protect existing standards.....	5
	2.1.2 Taking more account of adjustment costs in deliberations at expert and political level on legislative proposals (both at national and EU level)	6
	2.1.3 Helping businesses directly affected with implementation.....	7
	2.2 Category-specific levers	7
	2.2.1 Procurement or retrofitting of machinery, plants, buildings and infrastructure	8
	2.2.2 Introduction or adjustment of digital processes.....	9
	2.2.3 Oneoff obligation to provide information.....	10
	2.2.4 Training costs.....	10
	2.2.5 Adapting organisational structures	11
	2.2.6 Adaptation of products, manufacturing processes and procurement methods.....	12
3	Quantitative limitation of adjustment costs	12
4	Documentation as part of the proposal	13
5	Monitoring and reporting.....	13
6	Entry into force / evaluation	13
7	Contact persons.....	14
	Imprint	15

1 Preliminary remarks

Bureaucracy brake, compliance costs and adjustment costs

The bureaucracy brake using the ‘one in, one out’ rule calculates regular compliance costs for business and the Bureaucracy Cost Index depicts how costs for businesses are changing as a result of recurring information and documentation requirements. In addition, regulations can trigger adjustment costs¹ for businesses because the new legislation means structures, products and processes have to be adapted or provides for an oneoff obligation to provide information.

Adjustment costs for businesses: some 10 billion euros

From 2012 to 2018, the Federal Government adopted 287 legislative proposals which triggered adjustment costs for businesses to the tune of some 10 billion euros. Here, adjustment costs can be triggered at a certain point in time in their entirety or, in the case of longer transition periods, arise gradually over a period of several years. Adjustment costs can also be necessary in order to reduce regular compliance costs.

Goal: limiting adjustment costs

In its Work Programme on Better Regulation, the Federal Government agreed to limit adjustment costs as much as possible.

Policy to increase transparency on adjustment costs

For this reason, it has drawn up this Policy to increase transparency on adjustment costs for business and their effective and proportionate limitation. In doing so, the Federal Government examined whether and how to support this goal by applying indicators to elucidate both quality and quantity.

Small and medium-sized companies are particularly affected

Small and medium-sized companies are particularly affected by adjustment costs. Just like the SME test guidelines, this Policy aims to increase legislators’ awareness of the particular burden and to point to alternative regulations involving lower compliance costs.

All in all, when discussing legislative proposals with the Länder, umbrella organisations of municipalities, experts and associations, the Federal Government will focus in particular on adjustment costs.

Adjustment costs as an important criterion for political decision-making

The Federal Government perceives limiting adjustment costs to be a cost-effective way of simplifying procedures whilst preserving existing protection standards. This means the level of adjustment costs is always an important criterion for political decision-making without any obstruction or prevention of politically desirable measures.

¹ The methodology adopted by the Federal Government covers, alongside regular compliance costs, one-time compliance costs (adjustment costs). The terms one-time compliance costs and adjustment costs are used interchangeably.

2 Qualitative approaches to limit adjustment costs

When drawing up legislative proposals, the Federal Government will, while taking account of all interests, examine the use of the following levers to limit adjustment costs:

2.1 Cross-category levers

2.1.1 Provide for sufficiently long implementation periods/optional implementation/regulations to protect existing standards

Longer implementation periods can make a key contribution to keeping adjustment costs lower:

- new legal requirements can be implemented at less cost in connection with subsequent replacement acquisitions; for example, older technical equipment does not need to be converted,
- implementation options can be tested in living labs or pilot projects meaning functioning implementation options can be offered to businesses at lower cost,
- new legal requirements are initially only to be applied on an optional basis by those affected, who can themselves decide on a suitable time to make the adjustment, or
- implementation periods can be staggered depending on the size of the business.



One special form longer implementation periods can take is to apply new regulatory requirements only to new cases and apply older rules to existing cases. This would mean the cases to which older rules apply would disappear in the course of time and the new legislation would be applied across the board to all new cases.

Special form of longer implementation periods

Implementation periods are often prescribed by European law. In consultations on EU legislative proposals, the Federal Government, supported by contributions by associations, will draw increased attention to the question of implementation periods.

The length of the implementation period can also have an impact on the effectiveness of the new regulation. The Federal Government will thus consider even more carefully when a new regulation should start to apply and what impact this has on the level of adjustment costs. In this context, it is advisable to describe the effectiveness of various implementation periods and to identify the respective adjustment costs.

Length of the implementation period

Adjustment costs as an essential political decision-making criterion



This means that, alongside questions of entry into force, the level of resulting adjustment costs is also an essential political decision-making criterion. This reflects the principle of proportionality and also the demands of the SME test.

2.1.2 Taking more account of adjustment costs in deliberations at expert and political level on legislative proposals (both at national and EU level)

Ways of keeping the adjustment costs of legislative proposals as low as possible emerge when legislative proposals are being drafted. No matter what their involvement, all those participating focus particularly on adjustment costs. The associations and experts involved in discussing legislative proposals are therefore called upon

- to draw on those directly affected and concrete practical experience when assessing the adjustment costs of planned regulations,
- to present an opinion specifically on the resulting adjustment costs of legislative proposals,
- to present alongside the adjustment costs for business as a whole also the burden for each individual business, and
- where applicable, to propose alternative regulations which can achieve the same objective with lower adjustment costs.

Request in the accompanying letter

Where necessary, the Federal Government will request an opinion on the adjustment costs in its accompanying letter, include the expertise of those involved in its considerations and document this in the explanatory memoranda on the law (see under point 4).

For this lever to be effective, involvement needs to be initiated in timely fashion and equipped with an adequate time budget. Modern forms of involvement, such as workshops, roundtables or simulation games, can facilitate effective consultation.

Actively involve adjustment costs at EU level

In bodies, participation processes or other forums at EU level, all those involved (associations, Federal Government) actively feed in questions regarding adjustment costs with a view to keeping said costs as low as possible.

2.1.3 Helping businesses directly affected with implementation

Associations and chambers, but also the administration itself, should better inform those affected of imminent changes at an early stage, promote solution-led exchange in modern participation formats and provide those affected with concrete examples of best practice illustrating how to implement regulations with minimum burdens. Providing checklists, brochures and guidelines can also help those affected with implementation and reduce costs.



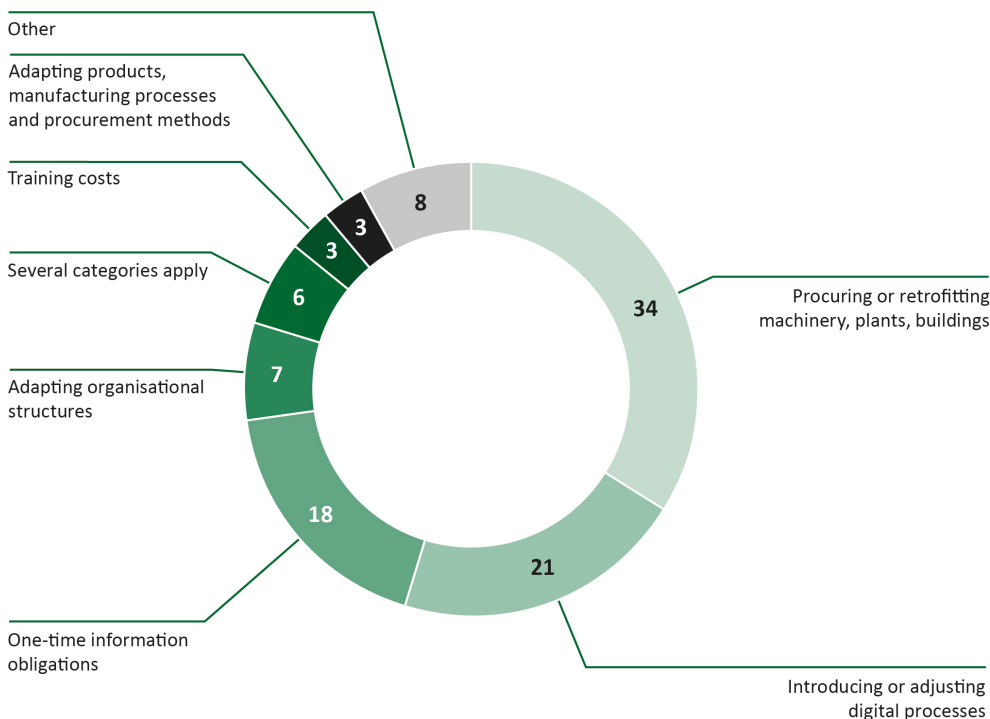
2.2 Category-specific levers

Adjustment costs can roughly be divided into six thematic categories. The analysis of adjustment costs to date show that regulations are adopted particularly often which necessitate the procurement or retrofitting of machinery and plants, the introduction and adjustment of digital processes as well as oneoff information obligations.

Six thematic categories

Analysis by the Federal Statistical Office of 150 selected regulations² from 2012 to 2018, which triggered adjustment costs³ ; percentages of individual categories:

Illustration 1: Percentage of selected regulations per individual category

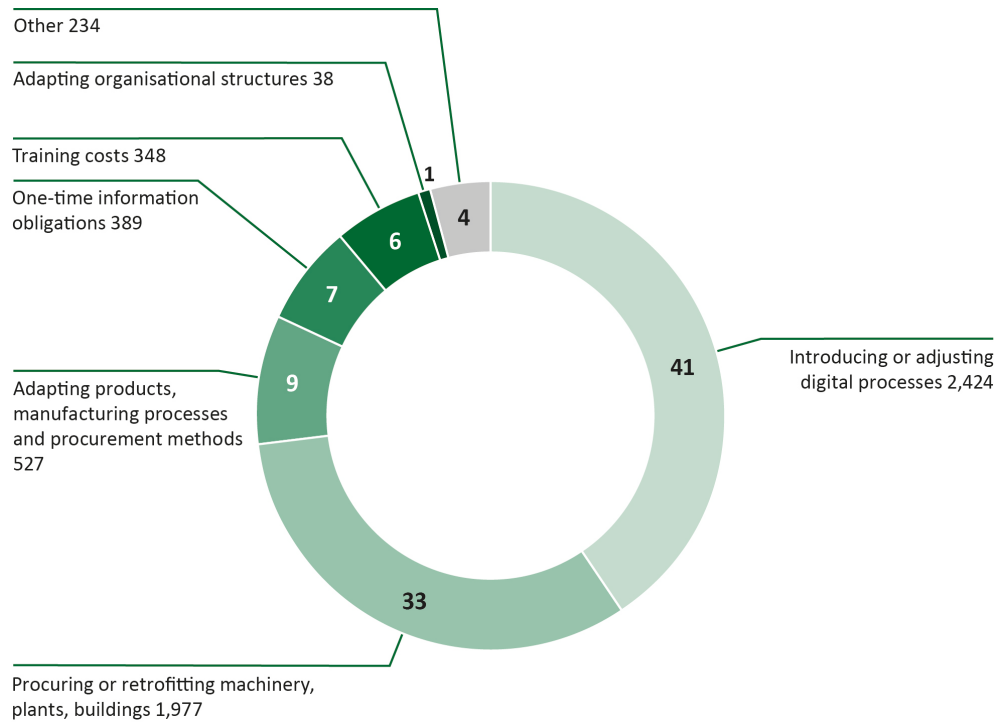


Source: Federal Statistical Office

² Analysis was performed on the 100 regulations that triggered the highest adjustment costs, as well as a further 50 regulations chosen at random from those with adjustment costs of more than 200,000 euros but less than 1 million euros.

³ Account was not taken of the particular effect triggered by the Repository Site Selection Act for a final disposal site for radioactive waste (oneoff adjustment costs of 2 billion euros).

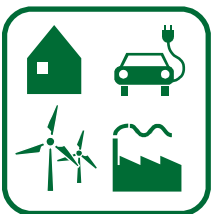
Illustration 2: Percentage of added up adjustment costs per individual category



Source: Federal Statistical Office

Alongside the general levers listed under point 2.1, each category has specific ways of limiting the adjustment costs in the category as much as possible.

Below, the various categories are described and the relevant levers outlined:



2.2.1 Procurement or retrofitting of machinery, plants, buildings and infrastructure

Legal amendments can include new requirements for plants, machinery, buildings and other infrastructure components. In order to meet these legal requirements at the time of entry into force, it can be necessary to perform oneoff conversion and retrofitting, building work or early replacement.

Ways of restricting the resulting adjustment costs include:

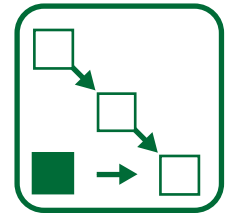
- a) At legislation level:
 - formulating requirements in the form of targets and not in the form of distinct measures (for example, prescribe limits and not the use of certain technology),
 - introducing regulations for exceptions/cases of hardship,
 - staggering requirements based on plant size; for example, formulating specific regulations governing small plants,
 - including special regulations for micro and small businesses if the oneoff costs are disproportionate to the size of the business and/or turnover (guided by threshold values), or

Factors to limit adjustment costs

- taking account of usual timeframes in business practice for new procurements and decommissionings when setting the implementation period,
- b) At law enforcement level:
- making available staff in law enforcement agencies to advise on implementing measures.

2.2.2 Introduction or adjustment of digital processes

It can be necessary to introduce new or adjust existing digital processes and software in order to fulfil legal requirements. Consequently, programmes may need to be developed, interfaces adapted or data transferred, extended or restructured.



Factors to limit adjustment costs

Ways of restricting the resulting adjustment costs include:

- a) At legislation level:
- simplifying and harmonising underlying legislation and procedural provisions,
 - securing seamless digital communication with the administration (digital compatibility) using specific regulations which, where applicable, abolish existing formal requirements or obligations to present documentation,
 - tapping scope for action under European law and supporting the use of existing digital data (once only),
 - ensuring uniform implementation (appointing a central agency for implementation or setting of legal standards for implementation),
 - admitting certifications for digital processes,
 - legally regulating that existing data are adapted automatically to the new legal situation (recoding); for example, general rules or special regulations for existing cases instead of complicated, supposedly more precise conversion of all cases by hand.
- b) At law enforcement level:
- bearing in mind the entire process (for example, application procedure) when digitalising individual elements (for example, forms) and where possible making it more efficient,
 - reducing errors and inquiries by performing automatic plausibility studies.



Factors to limit adjustment costs

2.2.3 Oneoff obligation to provide information

Following a legal amendment, affected parties need to be informed accordingly by businesses. This can concern information provided to customers, licensing procedures, changes to labelling obligations and the switch to a new procedure.

Ways of restricting the resulting adjustment costs include:

- carefully examining who really needs the information, formulating a clearly delineated group of addressees of the legal obligations (that is, no wide distribution),
- in cases where information is actually needed, examining first whether the information required can be gained from existing data sources; where necessary, creating legal framework for data retrieval,
- flexibility regarding means of transmission so that those obliged to provide information can decide themselves or chose from several suitable transmission options when it comes to providing those affected with information in suitable fashion (for example, also via email),
- flexibility regarding the exact timing of transmission, that is, as a rule only the naming of a time by which the information must be transmitted at the latest; this would make it possible for businesses to transmit information together with other pieces of customer information that are pending, such as monthly statements (thus saving postage costs),
- to facilitate the provision of information that complies with the law with minimum outlay (for example, for customers), templates published by the Federal Government can be useful; relevant associations should be involved when these are being drafted,
- identifying suitable communication channels and comprehensible content (see also point 7).



2.2.4 Training costs

As a result of legal amendments, employees of businesses affected can require further training. This can be anchored directly in the law (for example, the presentation of proof of expertise) or result indirectly from the legal amendment (for example, if the amendment is so far-reaching that special training courses are needed to introduce the new processes in the businesses).

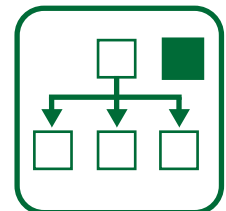
Ways of restricting the resulting adjustment costs at the level of legislation include:

Factors to limit adjustment costs

- providing simple legal regulations; the more simply and clearly the legal regulation is formulated, the less work is required to familiarise those affected with the material through training courses,
- carefully examining who really needs further training, formulating a clearly delineated group of addressees of the legal obligations (that is, no wide distribution),
- when different laws within one legal sphere are being amended, providing for simultaneous entry into force (for example, once a year) so that training courses can be combined,
- alongside face-to-face training measures, expressly permitting distance or online courses for self-study,
- including content of further training courses in basic training curricula so that these staff members do not require further training,
- foregoing special documentary proof regarding the specialist knowledge attained through the training course if it is in the interest of the businesses to ensure staff have necessary expertise.

2.2.5 Adapting organisational structures

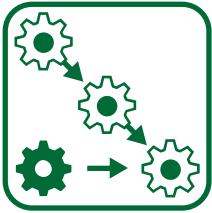
Organisational structures are a system of rules which govern the actions in the organisation (for example, a business) and/or determine procedures. A legal amendment can require addressees to adapt organisational structures at a certain point in time.



The following steps can help restrict the resulting adjustment costs:

Factors to limit adjustment costs

- at the legislation stage ensuring that new/amended procedures are governed in uniform fashion nationwide. This minimises the expense of implementation,
- making available templates (for example, standard statutes, clauses in contracts and regulations) to facilitate rapid implementation within organisational structures providing legal certainty,
- avoiding legal regulations which dictate how businesses are to fulfil the requirement. For example, when creating the function of a commissioner, do not include regulations on who could perform this function and where it is to be included in the organisational structure.



Factors to limit adjustment costs

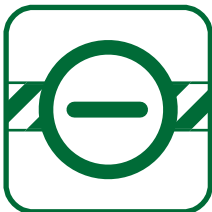
2.2.6 Adaptation of products, manufacturing processes and procurement methods

If products, manufacturing processes or procurement methods have to be adapted or changed at a certain point in time due to new legal requirements and this adaptation/change is only taking place as a result of the legal amendment, adjustment costs can result.

Ways of restricting the resulting adjustment costs at the level of legislation include:

- prescribing targets and/or protection standards instead of prescribing certain technologies to be used so that the addressees can themselves choose the solution with the lower outlay,
- creating synergy effects by transferring solutions from comparable previous legal regulations or from other legal spheres.

3 Quantitative limitation of adjustment costs



Tangible reduction expected

In the first two years of the 19th legislative term, adjustment costs triggered by all the legislative proposals passed by the Federal Government totalled 900 million euros. That is less than a fifth of the total in the 18th legislative term. One factor in this drop is likely to have been that, when drawing up this Policy, the federal ministries focused intensively on ways of restricting adjustment costs.

By using the aforementioned levers, the Federal Government expects to continue to tangibly reduce adjustment costs in the current legislative term.

Examination of further quantitative approaches to restrict adjustment costs

At the latest when ten years of adjustment cost data is available, the Federal Government will examine whether additional quantitative approaches can be used to restrict such costs further.

4 Documentation as part of the proposal

In the explanatory memorandum to legislative proposals which incur adjustment costs, the Federal Government points out that the present Policy has been applied.

As part of the presentation of compliance costs pursuant to §44 (4) of the Joint Rules of Procedure of the Federal Ministries, the lead ministry can also outline whether and, if so, which implementation options have been examined to achieve the aim of the regulation (level of adjustment costs and influence on the impact of the proposal, recitals). In the case of legislative proposals with high adjustment costs, such documentation is appropriate.



5 Monitoring and reporting

As part of the established quarterly monitoring on changes to compliance costs, the Federal Statistical Office will in addition continuously analyse how adjustment costs for ministries and the Federal Government as a whole are developing and thereby systematically increase transparency.

The obligation of the Federal Government under section 7 of the National Regulatory Control Council Act to report annually to the Bundestag includes these developments. At the assessment and communication stage, the Federal Government will take due account of particular affects, for example by indicating particularly high adjustment costs of individual regulations.

Moreover, transparency on adjustment costs is increased by the fact that the annual report will in future provide differentiated reporting on individual categories of adjustment costs (number of regulations per category, level of compliance costs per category). To this end, the Federal Statistical Office will itemise regulations which cause adjustment costs in the database according to category-specific criteria.



Increase transparency on adjustment costs

6 Entry into force / evaluation

The present Policy is to apply to legislative proposals for which the interdepartmental coordination process is started on or after 1 January 2020.

At the end of the 19th legislative term, the Federal Government will assess its experience with applying the Policy and develop it further.



7 Contact persons



- In the case of fundamental questions on the present Policy: Federal Chancellery, Division 613 (Better Regulation and Bureaucracy Reduction), email address referat613@bk.bund.de;
Further information on better regulation and bureaucracy reduction: <https://www.bundesregierung.de/breg-en/issues/better-regulation>;
- Further information on the participation of those affected in connection with the assessment of adjustment costs (c.f. point 2.1.2), the development of implementation aids (c.f. point 2.1.3) or the choice of suitable communication channels and comprehensible communication (c.f. point 2.2.3): Federal Chancellery, Division 612 (wirksam regieren), email address referat612@bk.bund.de;
- Find out more: <https://www.bundesregierung.de/breg-en/issues/wirksam-regieren-with-citizens-for-citizens>;
- Further information on the methodology of identifying adjustment costs and their monitoring: Federal Statistical Office, Group A3, email address erfuellungsaufwand@destatis.de;
- Further information on the presentation of adjustment costs in legislative proposals: Secretariat of the National Regulatory Control Council; list of contact persons: <https://www.normenkontrollrat.bund.de/nkr-en/about-us/nkr-secretariat>

Imprint

Federal Statistical Office, Wiesbaden
on behalf of the Federal Government

Published by

Division 613 (Better Regulation; Better Regulation Unit)

Federal Chancellery
Willy-Brandt-Straße 1
10557 Berlin

Contact

referat613@bk.bund.de
www.bundesregierung.de/better-regulation

Federal Statistical Office

Division A3 – Bureaucracy Cost Measurement
Gustav-Stresemann-Ring 11
65189 Wiesbaden

erfuellungsaufwand@destatis.de
www.destatis.de
under: government/bureaucracy costs

Official statistics

Internet: www.destatis.de
Central Information Service
Telefon: +49 (0) 611 / 75 24 05
<http://www.destatis.de/contact>

Published in February 2020 on the basis of the decision of the State Secretaries' Committee on Bureaucracy Reduction of 26 November 2019

Last update

Order number: 0000212-20900-1
Article number: 0000212-20900-4

Print

Download (PDF)

© Statistisches Bundesamt (Destatis), 2020
(on behalf of the joint editors)

Copyright

Reproduction and distribution, also of parts, are permitted provided that the source is mentioned.

Published by

Federal Statistical Office, Wiesbaden
on behalf of the Federal Government

Contact:

Division 613 (Better Regulation; Better Regulation Unit)
Federal Chancellery
Willy-Brandt-Straße 1
10557 Berlin

referat613@bk.bund.de

www.bundesregierung.de/better-regulation

Federal Statistical Office
Division A3 – Bureaucracy Cost Measurement
Gustav-Stresemann-Ring 11
65189 Wiesbaden

erfuellungsaufwand@destatis.de

www.destatis.de

Bestellnummer: 0000212-20900-4