

Chapter 1

Strategy and policies for Better Regulation

Regulatory policy may be defined broadly as an explicit, dynamic, and consistent “whole-of-government” policy to pursue high-quality regulation. A key part of the OECD’s 2005 Guiding Principles for Regulatory Quality and Performance is that countries adopt broad programmes of regulatory reform that establish principles of “good regulation”, as well as a framework for implementation. Experience across the OECD suggests that an effective regulatory policy should be adopted at the highest political levels, contain explicit and measurable regulatory quality standards, and provide for continued regulatory management capacity.

Effective communication to stakeholders is of growing importance to secure ongoing support for regulatory quality work. A key issue relates to stakeholders’ perceptions of regulatory achievements, and how progress can be effectively communicated (business, for example, may continue to complain about regulatory issues that are better managed than previously).

Governments are accountable for the often significant resources as well as political capital invested in regulatory management systems. There is a growing interest in the systematic evaluation of regulatory management performance, *i.e.* “measuring the gap” between regulatory policies as set out in principle and their efficiency and effectiveness in practice. How do specific institutions, tools and processes perform? What contributes to their effective design? The systematic application of *ex post* evaluation and measurement techniques can provide part of the answer and help to strengthen the framework.

E-Government is an important support tool for Better Regulation. It permeates virtually all aspects of regulatory policy from consultation and communication to stakeholders, to the effective development of strategies addressing administrative burdens, and not least as a means of disseminating Better Regulation policies, best practices, and guidance across government, including local levels. Whilst a full evaluation of this aspect is beyond the scope of this project and would be inappropriate, the report makes a few comments that may prove helpful for a more in depth analysis.

Assessment and recommendations

Development of Better Regulation strategy and policies

There have been significant developments since the last OECD review in 2004. The 2005 coalition agreement includes important references to Better Regulation. The main pillar of current federal policy on Better Regulation is a carefully structured programme to reduce administrative burdens on business (“Bureaucracy Reduction and Better Regulation”) adopted in 2006. Although Germany started its programme relatively late, it is

well anchored, not least through cross party consensus of the need for action. A clear and full baseline has been established covering all federal legislation, and a quantitative target has been set. The programme is independent of the political cycle (end date 2011). There is also a wide ranging programme to take forward e-Government in support of businesses and citizens (“Focused on the Future: Innovations for Administration”, including the e-Government 2.0 programme) also adopted in 2006. There is a growing interest in developing a sustainability dimension to the agenda. At the same time legal quality continues to receive attention, supported by recent initiatives such as the “Electronic Guide to Law Drafting”, the deployment of the eNorm software to guide drafters and increase productivity, and efforts to improve linguistic clarity. Measures to simplify the legislative stock have also been vigorously promoted, with encouraging results (the number of regulations has been significantly reduced).

Developments are based on a discernable change in attitude. The federal government is now driving some important changes, together with a few *Länder*. There is interest in going further (as it was put to the OECD peer review team “the system is not frozen, it has adaptive capacities”). Better Regulation has been brought closer to the centre of government with the establishment of the federal chancellery Better Regulation unit, and the initiatives of key frontline ministries including Justice and Interior. Resources are being deployed to build up capacity, although these need to be strengthened in some cases. The federal burden reduction programme, in particular, has raised awareness of the costs of regulation and the impact on business (and citizens), sowing the seeds of further developments. Most recently, the federal government and parliament have been developing plans for a sustainability impact assessment.

Better Regulation processes remain, however, tailored to German traditions, and in search of a clearer identity. The link between the longstanding and often highly sophisticated older structures and processes for law making (epitomised by the *Joint Rules of Procedure*), and new processes such as impact assessment, the burden reduction programme, and more open consultations remains tenuous. There is a sense that the new tools are being adapted to fit the existing framework, instead of being used as an opportunity to act as a lever of more fundamental change. Impact assessment for example does not stand out with a clear identity from the broader framework of the *Joint Rules of Procedure* for law making. This misses an opportunity to take a fresh look at how public policies are launched and developed. As a result Better Regulation continues to struggle for a clear identity. As one interviewee put it, “Germany needs the courage to break out of its traditions”. This is possible, without dismantling all the good effects of a strong and (generally co-operative) legal state which many interviewees said works smoothly. Using pilots to smooth the way seems to work well in the German context, provided that these are followed through robustly and do not fade out.

A related issue is that the approach is not co-ordinated. As in many other OECD countries there is no specific strategy document on Better Regulation. There is no “joined up” perspective on Better Regulation as yet. The current picture is fragmented. The Interior Ministry’s engagement in Better Regulation leans the process toward citizens and the administration. The Justice ministry pursues its valuable legal quality initiatives somewhat apart. Guiding principles for Better Regulation (meaning a clear view of core elements and how they interact) are unclear. This fragmentation was noted in the 2004 OECD report. As well as overall coherence, the linkages between specific programmes need attention. For example, is enough being done to exploit the synergies between the burden reduction programme and e-Government initiatives? A coherent Better Regulation reform agenda is needed, which links up the different initiatives to give Better Regulation policy a clear identity, for the benefit both of internal and external stakeholders.

Box 1.1. Recommendations from the 2004 OECD report

Close the implementation gap between regulatory policies and practices

The immediate challenge for regulatory governance in Germany is to close the implementation gap between existing regulatory policies and practices by enhancing and improving the political, institutional and practical support for high quality regulation. This can be done by expanding, converting and making operational existing tools and concepts into coherent and consistently applied regulatory practices. Meeting this challenge would include improving and enhancing the current support for these policies – political, institutional as well as practical support.

Strengthen regulatory policies by setting out a single government-wide regulatory policy

Germany should strengthen regulatory policies as a permanent, high priority for the government, with an integrated approach to the use of regulatory tools, procedures and institutions. Several programmes and policy commitments address different aspects of a regulatory policy in Germany, but with a notable emphasis on *ad hoc* projects focussing on *ex post* reviews and the reduction of administrative burdens. Germany does not have a single explicit or published policy promoting a government-wide regulatory policy. Many regulatory policy elements are applied *ad hoc*, depending on the political strength of individual ministers, without a permanent, government-wide and institutionalised management structure to support it. Policy-makers and civil servants have no strong incentives to pursue a consistent and coherent application of the regulatory policy guidelines already in place. An explicit government-wide policy on the quality of regulation, with the institutions and legal support to carry it out, would boost the benefits of reform for Germany. It is equally important that the policy endorses the systematic use of evaluations and quantitative, evidence-based assessments as the basis for regulatory decision-making and for the review and revisions of existing regulation.

The scope of Better Regulation processes remains somewhat narrow, and the administrative burden reduction programme appears to have absorbed a large part of the political impetus. The agenda leans disproportionately towards the measurement (and reduction) of costs, leaving the analysis of benefits in the background. The federal administrative burden reduction programme only covers federal legislation, and only considers information obligations on companies, not other forms of compliance costs. The framework for this programme needs to be broader. At the same time, *ex ante* impact assessment needs to be strengthened – the development of a sustainability dimension provides an opportunity to do this. Longstanding processes are in place, but there is no strong guidance or challenge to secure the quality of assessments and their timeliness in relation to decision-making.

Recommendation 1.1. Make sure that there is a balanced development of Better Regulation policies. Consider how to strengthen *ex ante* impact assessment as well as the burden reduction programme (see Chapters 5 and 6 for more detail). Consider the issue of a name for the strategy which reflects its broad reach. For example, Better Regulation (*Bessere Rechtsetzung*) should be preferred to *Bürokratieabbau* (Reducing Bureaucracy).

The strategic relationship with high level public policy goals, especially economic goals, is not clearly evident. Despite the valuable link which is underlined between burden reduction and business competitiveness, the strategic value and purpose of Better Regulation is not as prominent as it should be. Strikingly, post crisis, the overall economic dimension to Better Regulation in Germany remains weak. There is only marginal participation by the Economics and Finance Ministries. Although there are considerable

advantages in having the federal chancellery as co-ordinator of the burden reduction programme, the downside is that the programme is not clearly linked to broader economic policies in support of competitiveness and post crisis recovery. Effective regulatory management (going beyond burden reduction) has an important contribution to make in sustaining economic performance and supporting further structural reforms. The sustainability dimension is also not yet fully exploited. Further work to define the strategic scope of Better Regulation, and to raise its profile, would benefit from the input of key external stakeholders, including (but not only) the business community.

Recommendation 1.2. Consider the development of a white paper which proposes an ambitious and interesting vision for future developments. The white paper should identify key programmes, their linkages, and targets to be achieved (qualitative or other), to be shared across the federal ministries and with those *Länder* that wish to participate. Consult widely and seek out partners to help flesh out the vision. Ensure that the strategic link with economic and sustainability goals and performance is clearly spelt out. Once the baseline paper has been agreed, back it up with an annual report on developments, signed by all the relevant federal ministries and interested *Länder* (using examples of successful processes from other countries such as the United Kingdom).

Encouragingly, efforts are being made to encourage federal-Länder co-operation in areas where a shared approach is important, such as burdens on business. A greater presence of the *Länder* in Better Regulation is evident. Pilot projects have been set up by the federal government to link up federal initiatives and *Länder* programmes (notably as regards administrative burdens and e-Government). There is a willingness to experiment, involving like-minded *Länder*. It appears that a growing number of *Länder* are taking a dynamic approach both to co-operation with the federal government and in terms of their own initiatives. The federal and *Länder* initiatives nevertheless remain largely separate. Given the federal context, joining them up is likely to be a slow work in progress, but the pilots show promise.

Recommendation 1.3. Continue efforts to identify areas where Better Regulation initiatives can be shared with the *Länder*.

Communication on Better Regulation strategy and policies

Communication has so far been largely limited to the administrative burden reduction programme. The government's annual report on the administrative burden reduction programme has been the main specific recent communication related to Better Regulation available to the general public.

Communication on other aspects of Better Regulation remains fairly invisible. Communication on Better Regulation strategy and policies is not evident, beyond the fact that is referenced in the coalition agreements. This is perhaps not surprising as there is some work to be done giving the policy shape and coherence (see above). In the German context, with autonomous ministries, there is the further challenge that the federal government does not always speak with one voice and there are different communication cultures within the administration. However, the overall effect is to leave stakeholders (inside and outside the administration) well short of a clear picture of what is being achieved, and how it helps broader policy objectives. The component parts of Better Regulation remain a somewhat internal affair, driven by officials, and it is not yet seen as an opportunity for the public administration to develop a more evidence-based, client-

oriented approach. The rather closed approach to public consultation (see Chapter 3) does not help matters. The external dimension is weak, with little obvious input from the business community to advocate for Better Regulation alongside the government, as exists in a number of other European countries (the Swedish Board of Industry and Commerce for Better Regulation-NNR- is a very good example).

Recommendation 1.4. Alongside the development of a more joined up policy for Better Regulation, develop a communication strategy which sets out developments and explains the link between Better Regulation and practical outcomes and advantages for businesses, citizens and the economy. Encourage the German business community to raise their profile as advocates for Better Regulation.

Ex post evaluation of Better Regulation strategy and policies

As in most other OECD countries, ex post evaluation of the successes and failures of Better Regulation programmes is ad hoc. With a few exceptions, there is no attempt to evaluate programmes in order to inform future developments. One notable exception is the e-Government programme which was reviewed prior to the launch of the current programme, and the results were used to shape the latter. There has been no evaluation, for example, of the effectiveness of current *ex ante* impact assessment processes. It is important to distinguish between evaluation and monitoring exercises. For example, the annual reports on the administrative burden reduction programme are not a substitute for an *ex post* evaluation of the programme as a whole. Regular programme evaluation will enhance the effectiveness of future reforms, and can also be used to engage business and citizens in the results.

Recommendation 1.5. Commission evaluation studies of key programmes from universities, think tanks or private foundations on a regular basis. Consider whether the Court of Auditors might play a role (as is the case in several other EU countries, including the United Kingdom and the Netherlands).

E-Government in support of Better Regulation

E-Government is a cornerstone of the federal government's policy to modernise and streamline public administration at federal level, with significant knock on effects for Better Regulation. The Interior ministry closed the chapter on the first programmes, and has started afresh. Objectives have, importantly, been set beyond the lifespan of the current government. The “e-Government 2.0” programme is an integral part of the strategy. It has been developed in compliance with the European Action Plan i2010, drawing on the achievements and experience of the previous legislature. The strategy includes several useful initiatives for Better Regulation including the single public administration telephone number (citizens can phone the number to ask any questions they like), which is a shared initiative with the *Länder*, currently in the pilot phase. The legal framework for e-Government roll out has also been strengthened, although more is needed to support data re use and interoperability. The EU Services directive has been a major boost to the development of one-stop shops and the electronic processing of services (as in other EU countries).

Results so far are promising but Germany is conscious that ICT potential is a long way from being fully exploited. The development of e-Government initiatives in a federal state is acknowledged to be a major challenge. For example, the federal government, *Länder* and

municipalities operate over 7 000 websites that are barely integrated. At the same time, e-Government initiatives can help to speed culture change within the administration. The IT society challenges the assumption of independent and isolated federal ministries. The new institutional framework for e-Government (CIO officers in each ministry, the creation of an IT Council) is a promising support for the process. The planned establishment of the Planning Council of Representatives of the federal government and the *Länder* for e-Government initiatives should help to lubricate co-operation between the levels of government. There is unexploited scope for e-Government to address administrative burdens as well as to support greater transparency in public consultation and communication. Feedback to the OECD peer review team suggested that more streamlined public service delivery has some way to go yet.

Background

Main developments in the German Better Regulation agenda

Table 1.1. Milestones in the development of Better Regulation policies in Germany

1958	<i>Joint Rules of Procedure</i> of the federal ministries. Revisions in 2000 introduce obligations to prepare Regulatory Impact Analysis.
1977	Administrative Procedure Act.
1984	The Blue Test Questions on regulatory quality issues endorsed by Cabinet.
1996	Act to Expedite Approval Procedures.
1991	Manual on Legal Drafting endorsed by Cabinet.
1997	Established in 1995, the independent Lean State Advisory Council tables its final report to the federal chancellor.
1999	Government programme Modern State – Modern Administration introduces the enabling state.
2001	RIA methodological working aid issued by the Ministry of the Interior.
2003	Agenda 2010. Initiative to Reduce Administrative Burdens.
2006	Cabinet Decision on the federal government's Bureaucracy Reduction and Better Regulation Programme. Programme Innovations for Administration including the e-Government 2.0 Programme.
2007	Baseline Measurement for businesses begins. Cabinet Decision on the 25 % Reduction Target (by end 2011). Definition of an intermediate target of (about) 12.5 % (by end 2009).
2008	Conclusion of Baseline Measurement for businesses.
2009	Start of the <i>ex ante</i> assessment of administrative burdens on the citizens.

Guiding principles for the current Better Regulation policy agenda at the federal level

There is no specific strategy document on Better Regulation as exists in a few (not many) other EU countries. The 2005 coalition agreement, which was the basis of the federal government's policy programmes in the previous legislative term, as well as the Cabinet decision on the Programme "Bureaucracy Reduction and Better Regulation Programme of the federal government" of April 2006 include important references to Better Regulation. The main pillars of current federal policy on Better Regulation – against the backdrop of continuing strong emphasis on legal and administrative procedures for law making – are the programme to reduce administrative burdens, with a strong emphasis on business, and a wide ranging programme to take forward e-Government in support of businesses and citizens. There is a growing interest in developing a sustainability dimension to the agenda by including this in the *ex ante* impact assessment of new regulations. Core processes relating to legal quality and clarity, as well as legislative simplification, continue to be vigorously promoted. Increasingly, efforts are being made to encourage federal *Länder* co-operation in areas where a shared approach is important, such as burdens on business and citizens.

Main Better Regulation policies at the federal level

Flagship initiatives:

- *Programme "Bureaucracy Reduction and Better Regulation"*, adopted in 2006. The programme aims at reducing unnecessary administrative costs resulting from information obligations from federal legislation which was in force on the baseline date (30 September 2006) by 25% by 2011,¹ using the SCM.
- *E-Government programme "Focused on the Future: Innovations for Administration"*, including the e-Government 2.0 programme, adopted in 2006. Its overall objective is to create user centric services, and accelerate administrative processes. It includes action plans to improve federal government e-services, optimise the electronic interface between business and the public administration, set up an electronic national identity card, and strengthen the communication infrastructure with business and citizens via portals for example. It also includes an initiative for a single government service telephone number for citizens, across the territory.
- *Legal quality initiatives*. These include, notably, the "Electronic Guide to Law Drafting", the deployment of the "eNorm" software to help drafters comply with formal and editorial requirements in the same format throughout the law making process, and an initiative to boost linguistic clarity.

Other measures:

- Three acts on relief for small businesses from excessive regulation, since 2005, and a catalogue of accompanying measures, including a database of information on federal and *Länder* regulations affecting SMEs, adopted in 2006.
- Legislative simplification initiative. The enactment since 2003 of eleven laws repealed some thousand redundant laws and regulations.
- Data base of current federal administrative regulations, set up in 2006, with a public enquiry service.

federal/*Länder* measures:

- Constitutional amendment to promote benchmarking among the *Länder* administrations, between the federation and the *Länder*, and within the federal administration.
- Pilot programmes to link up the federal administrative burden reduction initiatives with the *Länder* burden reduction programmes.
- *Deutschland - Online*, set up in 2003, to foster integrated e-Government across the different levels of government.
- Implementation of the EU Services Directive including the establishment of Points of Single Contacts.

Communication on the Better Regulation agenda at the federal level

The Press and Information Office of the federal government is responsible for the executive's official communication policy. So far, the Better Regulation policy and agenda have not been centrally communicated. Communication is normally left to the individual Ministries, which set their own priorities and put varying emphasis on the relevance of the agenda for their activities.

Communication with stakeholders on Better Regulation also takes place in the form of frequent and regular working level meetings and through special conferences organised by stakeholders, at which government representatives have the opportunity to outline recent developments.²

The government's annual reports on the administrative burden reduction programme have been the main specific recent communication related to Better Regulation available to the general public.

Ex post evaluation of Better Regulation strategy and policies

Ex post evaluation of Better Regulation policies tends to be *ad hoc*, as in many other EU countries. It can be quite well developed, and often takes the shape of reports presented to the *Bundestag* or the responsible committees. An example is the report on renewable energy sources.³ The responsibility for regular *ex post* evaluation often lies with specific institutions, typically federal authorities. At least 14 bodies have formal evaluation instructions within the federal administration. Recent estimates calculated the budget devoted to *ex post* evaluation and related activities by the federal government in 2007 to be EUR 112.3 million. *Ex post* evaluations may also be carried out by privatised actors (*e.g.* the post, telecommunication and railways sectors), special fund of the *KfW* banking group (*Sondervermögen (KfW)*), as well as social organisations (*e.g.* in the framework of the health care system).

The federal government presents an “Annual Economy Report” to the *Bundestag* and the *Bundesrat* in accordance with section 2 of the Law to Promote Economic Stability and Growth (*Gesetz zur Förderung der Stabilität und des Wachstums*).⁴

Perhaps the most visible evaluations are the reports on the administrative burden reduction programme, which are provided for in the law establishing the *NRCC*. The *NRCC* reports back to the federal chancellor annually on the status of the *ex ante* procedure. It may also present recommendations to the federal government at any time. The government reports to the *Bundestag* annually on the status of the overall programme. Both reports are discussed by the competent parliamentary committees.

E-Government was reviewed prior to launching the current programme. The Report on the “*BundOnline 2005*” initiative served as a benchmark for developing the current e-Government 2.0 programme.

E-Government in support of Better Regulation

E-Government is a cornerstone of the federal government’s policy to modernise and streamline public administration at the federal level. The adoption of a comprehensive strategy “Focused on the Future: Innovations for Administration” (*Zukunftsorientierte Verwaltung durch Innovationen*) in September 2006 launched a clear signal of renewed commitment in this field. With regard to Better Regulation, the programme seeks to enhance the federal administration’s effectiveness and efficiency; reduce unnecessary bureaucracy; and improve law enforcement. More recently, the conclusions of a bi-cameral commission (*Kommission zur Modernisierung der Bund-Länder-Finanzbeziehungen*) of March 2009 set IT as the basis for developing structural communication in the 21st century and recommended amending the Basic Law accordingly. The government has also sent a clear signal of the need to take the long view, by setting objectives beyond its life span (the time horizon of the “e-Government 2.0” programme is 2010, while the “CIO Strategy” lasts until 2011). The website *www.verwaltung-innovativ.de* provides complete information on the measures launched and updates on the progress made, allowing accountability towards stakeholders and the public.

BundOnline 2005 and the e-Government 2.0 programme

The “e-Government 2.0” programme is an integral part of the strategy (Box 1.2). It has been developed in compliance with the European Action Plan i2010. The strategy draws on the achievements and experience of the previous legislature, notably the “*BundOnline 2005*” initiative. This initiative, co-ordinated by the Ministry of the Interior, lasted from 2000 until 2005 and sought to make available on line all services of the federal administration by 2005. A central programme management system was set up, covering methods and specifying five base components.⁵ A knowledge-management system was also implemented to share experiences. The initiative was judged to be a success. By the end of 2005, some 440 services had been made accessible on the Internet, beyond the initial target of 400. It is estimated that the initiative generated annual savings of EUR 430 million for citizens and businesses. Internal savings are calculated to be EUR 350 million per year, mainly realised by a reduction of 1.5% in staff. Nevertheless, the current government decided that a new and even broader impetus was needed.

Box 1.2. E-Government at the federal level: The e-Government 2.0 programme

The objectives of the “e-Government 2.0” programme are to create user-centric services; optimise administrative processes and accelerate them by 15-30%; and reduce costs by 15%. The e-Government 2.0 programme builds on the following four fields of action, all centred on the Internet as the main channel for communication and service delivery:

- **Portfolio** – This refers to improving federal e-Government services in terms of quantity and quality. In particular, it addresses both the opportunity for all individuals to be part of the information society in social and technical terms (e-inclusion) and the enhancement of participation of businesses and the citizens in policy-making and administrative processes (e-participation). The pilot on-line consultation on the Citizen Portals Act is an example of the latter. In 2007, the federal Ministry of Interior conducted two studies on e-inclusion and e-participation that surveyed the stage of development reached in Germany and provided European comparisons.*

- **Process chains** – This seeks to optimise the interface between public administration and private businesses by establishing electronic collaboration through common process chains. Specifically, the action involves 32 pilot projects related *inter alia* to the electronic feedback on money laundering (eVA); electronic record-keeping for waste recovery and disposal (eANV); the electronic pollutant release and transfer register (ePRTR); and the research project IT Food Trace.
- **Identification** – This consists of introducing an electronic national identity card and developing e-identity strategies. A draft law has been adopted by the federal cabinet and is currently being debated by the parliament. The new eID Card is planned to be launched in November 2010.
- **Communication** – This aims to secure communication infrastructure for citizens, businesses and public administrations (*e.g.* through certified portals).

* See www.ifib.de/publikationsdateien/study_e-participation_engl.pdf (last accessed 14 April 2009).

Single Government Service Telephone Number

The e-Government strategy contributes to the implementation of projects on simpler, better and cost-effective access to the public administration. An example is the single public administration telephone number 115, a shared initiative of the three governmental levels under the leadership of the federal Interior Ministry and the *Land Hessen* (Box 1.3). This is a promising initiative. To ensure it reaches its full potential and the largest number of citizens it needs to be vigorously backed up with regular information campaigns and user surveys to sustain user interest and track progress.

Box 1.3. The Single Government Service Telephone Number (115)

This is a single phone number (115) for replying to questions addressed to any public administration across the territory.* The idea originates from the difficulties faced by citizens to understand who is who in the public administration and find out the responsible office for a given procedure or service. Because of the country's federal structure, the German public is confronted with a variety of public authorities across the territory. The goal is to answer 75% of calls within 30 seconds, and reply to at least 55% (later up to 80%) of the questions on the first call. As the service develops, a database will be continuously updated to include information on all levels of government.

The initiative started as a pilot project in March 2009 and involved a number of federal administrations and four *Länder*. The population initially covered is 10 million citizens (*ca.* 1/8 of Germany's total population). Participation in the project is on a voluntary basis, and it is expected that interest in the initiative will spill over across an increasing number of public administrations. The population not yet covered by the service receives an automatic answer when calling the 115 number informing them that their region has not joined the initiative. This should increase public awareness of the benefits of such service and put pressure on the laggards.

In the first week of service, the 115 call centre registered more than 150 000 calls, half of which in the regions and cities participating in the project.

* See www.d115.de (last accessed 14 April 2009).

CIO Strategy

The Cabinet decision “IT management at the federal level” of December 2007 is another important building block in the government’s efforts to modernise.⁶ The so-called “CIO Strategy” is mainly aimed internally at the administration, with a view to rationalisation and promoting innovation. New institutional structures support it. Since June 2008, an Action Plan complements the CIO Strategy. The plan covers a three-year implementation period and lasts until the end of 2011.

Legal provisions and the role of the parliament

The supporting legal framework has been strengthened over the past few years. The Electronic File Management Act of March 2005 allowed the German judiciary to process legal files and documents electronically and to pave the way for a paperless judiciary system. In summer 2005, the federal parliament adopted the Freedom of Information Act granting the public a general right to access federal government information. There are some explicitly defined exceptions, as Germany traditionally has a strict data protection regime.⁷ The law also contains an “Internet clause” that obliges federal administration bodies to make a number of items publicly available on line. In the follow-up, eleven *Länder* have adopted similar legal requirements.⁸ These laws follow a number of legal acts related to e-Government, covering e-Commerce (2001), e-Communication (2004), e-Signatures (2001, 2005), e-Procurement (2006), as well as the re-use of Public Sector Information (2006).

E-Government and other levels of government in Germany

The e-Government 2.0 programme is aimed at developing e-Government uniquely within the federal administration. Designing and implementing an integrated approach to e-Government in a federal state is a major challenge, not least because different authorities tend to develop different IT applications for the same purposes. This also implies an inefficient fragmentation of public investment in IT. In Germany, the federal government, the *Länder* and the municipalities operate over 7 000 websites that are barely integrated.⁹ Several important initiatives seek to address this issue on a continuous basis.

Deutschland Online

“*Deutschland-Online*” is a joint strategy devised by the federal government, the *Länder* and the municipalities in 2003. It seeks to foster co-operation and co-ordination for integrated e-Government.¹⁰ The strategy is based on priorities ranging from the development of integrated e-services, and the interconnection of Internet portals, to the development of common infrastructures and standards and the transfer of experiences and knowledge. The Conference of State Secretaries for e-Government in federal and *Land* governments ensures political co-ordination of the implementation of *Deutschland-Online*. National associations of local authorities also take part in the Conference. Reports are sent annually to the heads of government.

Annual “*Deutschland-Online* Action Plans” operationalise the strategy. The latest Action Plan was set up in December 2008. Besides insisting on the introduction of a secure, national communication infrastructure for administering the three layers of government in Germany, the 2008 Action Plan gives priority to a number of projects, including vehicle registration (under the leadership of Hamburg); civil status registration (led by Bavaria); and a revision of the registration system (led by the federal government). Particular emphasis is given to the implementation of the IT requirements included in the “Services

Directive” (European Directive 2006/123/EC on services in the internal market). Baden-Württemberg and Schleswig-Holstein are jointly responsible for this project, which was also supported by an on line consultation in autumn 2008.¹¹

Within the framework of the *Deutschland-Online* initiative, “*XRepository*”¹² is a new on-line library for XML based Data Exchange Formats. Launched in January 2009, this website constitutes a central location for the publication of a broad spectrum of data relating to e-Government projects, allowing re-use by other administrations and designers of business processes. The website also facilitates online research on standards and interfaces, which can be subsequently downloaded at no cost.

One-Stop Shops (Single Point of Contact) and the EU Services Directive

There are some 220 One-Stop Shops in Germany, where various registration and licensing applications can be filed with a single desk, for example, business registrations. These One-Stop Shops also offer advice and assistance to entrepreneurs who want to start their own business. The establishment and design of these One-Stop Shops is the responsibility of subnational authorities such as municipalities, chambers of commerce, and business groups.

The EU Services Directive (2006/123/EC) provides a significant boost to one-stop shops as it requires a uniform system across the EU internal market, and electronic processing of services. Within the framework of the Directive, “Single Points of Contact” have been set up throughout the country since 28 December 2009 (www.einheitlicher-ansprechpartner-deutschland.de). This was a priority project for “*Deutschland Online*”. A blueprint for implementation was presented in late 2008. This called for gradual expansion until all processing by public administration is conducted electronically. Co-operation between the federation, the *Länder* and municipalities within the project is reported to have been smooth, drawing, especially, from practical experience at the local level.

Since the adoption of the federalism Reform II in August 2009, the competence for establishing a nation-wide IT liaison network has been conferred exclusively on the federation.¹³ These changes are to be implemented by a future law (*Gesetz über die Verbindung der informationstechnischen Netze des Bundes und der Länder, IT-NetzG*), as well as by an implementing agreement expected to enter into force in April 2010. At the same time, an IT Planning Council of Representatives of the federal government and the *Länder* is to be set up to develop binding IT standards to enhance security and comparability across levels of government. Moreover, the Planning Council will be charged with the overall IT co-ordination, the design of the liaison network, and the implementation of e-Government projects.

Progress to date

The Implementation Action Plan for 2009 provides a detailed overview of the progress achieved in 2008 with respect to 32 modernisation projects. Processes using IT developed under the e-Government 2.0 programme and linked to the programme to reduce administrative burdens include the following:

- Excise taxes are now calculated largely automatically using special IT processes. These reduce processing times and help determine the level of fiscal burden sooner. Companies therefore receive earlier, reliable notification of what taxes they owe. Entry errors by staff in the responsible main customs offices have been reduced using computer-based plausibility routines. The possibility to file tax returns on line is planned. The most important regulatory content is presented in easy-to understand form on the Internet and in information sheets.

- With its Automated Customs Tariff and Local Processing Application System (ATLAS) for the German Customs Administration, the federal Ministry of Finance has created the conditions for largely automated processing and monitoring of cross-border goods traffic. With ATLAS, written customs declarations and administrative acts (such as notices of import duties) have been replaced by electronic messages. Most customs processing and administrative tasks have been automated, simplified and accelerated. Every office of the German Customs Administration is equipped with the specialised ATLAS programmes needed for its area of responsibility.
- Draft legislation proposed by the federal Ministry of Economics and Technology would introduce procedures for “electronic earnings statements” (ELENA). Proof of income is required when applying for some types of unemployment benefit, family allowances and housing allowances. For example, the Labour Administration uses employer-issued employment certificates to determine claims for unemployment benefits. Current legislation requires them to be printed out on paper. Every year, roughly 3 million employers issue about 60 million such statements. Under the planned future system, the employers will instead send their employees’ monthly income details electronically to a central database, saving up to EUR 85.6 million per year starting in 2012.

As a result of efforts made in the recent past, German society and the economy are now well tuned on accessing the Internet (75% of households and 95% of enterprises had access to the web in 2008). There is nonetheless still scope for improving the interface between users and the public administration on a number of services (Box 1.4). It will also be important to ensure that citizens who do not have access to the internet still have access to alternative ways of connecting with the administration.

Box 1.4. Information Society indicators in Germany

- Percentage of households with Internet access: 75% (2008).
- Percentage of enterprises with Internet access: 95% (2008).
- Percentage of individuals using the Internet at least once a week: 68% (2008).
- Percentage of households with a broadband connection: 55% (2008).
- Percentage of enterprises with a broadband connection: 84% (2008).
- Percentage of individuals having purchased/ordered on line in the last three months: 42% (2008).
- Percentage of enterprises having received orders on line within the previous year: 24% (2007).
- Percentage of individuals using the Internet for interacting with public authorities: obtaining information 31.1%, downloading forms 16.2%, returning filled forms 10.5% (2008).
- Percentage of enterprises using the Internet for interacting with public authorities: obtaining information 47%, downloading forms 48%, returning filled forms 45% (2008).

Source: e-Practice, e-Government Factsheets. Germany. Edition 11.0. January 2009, p.2 (based on Eurostat data).

Notes

1. With reference to the baseline of 30 September 2006.
2. Examples of such conferences are meetings on the implementation of the sustainability strategy of the government, as well as events with representatives of the *Gemeinschaftsausschuss der Deutschen Gewerblichen Wirtschaft* and the Chambers of Commerce. Internationally renowned special conferences in 2008 included the 2008 International Regulatory Reform Conference (IRRC 08), organised by the Bertelsmann Foundation; the “Modern State” fair; and the “New Administration” fair.
3. See the Experience Report supplied by the federal Ministry for the Environment, Nature Conservation and Nuclear Safety with regard to the Renewable Energy Sources Act (*Erneuerbare-Energien-Gesetz (EEG)* (7.11.2007), at www.erneuerbare-energien.de/inhalt/40342/. The Renewable Energy Sources Act was amended in line with the Experience Report, see: www.erneuerbare-energien.de/inhalt/40508/.
4. The Annual Report on the Economy for 2009 is entitled: Growth policy geared to economic cycle fluctuations (*Konjunkturgerechte Wachstumspolitik - Jahreswirtschaftsbericht 2009*). See: www.bmwi.de/BMWi/Redaktion/PDF/Publikationen/jahreswirtschaftsbericht-2009,property=pdf,bereich=bmwi,sprache=de,rwb=true.pdf.
5. The five base components for e-Government developed under the programme *BundOnline 2005* as one-for-all-applications were: (1) the content-management system (about 100 implementations); (2) the Virtual Post Box (about 40 implementations); (3) the ePayment-Plattform (about 25 implementations); (4) the Formular Management System (about 25 implementations); and (5) the portal *Bund.de* (nearly all government agencies at the state level). In addition, different frameworks, methods, and software tools have been deployed, independent from *BundOnline 2005* and e-Government 2.0 (see: www.cio.bund.de/cln_093/DE/E-Government/E-Government-Programm/e-Government-programm_node.html, last accessed 5 May 2009).
6. See: www.cio.bund.de/cln_102/DE/Grundlagen_IT-Steuerung_Bund/grundlagen_it-steuerung_node.html (last accessed 14 April 2009).
7. Cfr. the federal Data Protection Act of 2003.
8. See: www.bfdi.bund.de/cln_030/nn_743466/IFG/Gesetze/Landesgesetze/Landesgesetze__node.html__nnn=true (last accessed 14 April 2009).
9. See: *ePractice.eu*, e-Government Factsheets – Germany – Strategy, at: www.epractice.eu/en/document/288242 (last accessed 14 April 2009).
10. See: www.deutschland-online.de (last accessed 14 April 2009).
11. See: *IT-Umsetzung zur EG-Dienstleistungsrichtlinie*, at: www.deutschland-online.de/DOL_Internet/broker.jsp?uMen=58c105dd-ba3e-a511-4fbf-1b1ac0c2f214 (last accessed 14 April 2009).

12. See: *www.xrepository.deutschland-online.de/xrepository/* (last accessed 14 April 2009).
13. See the new Art. 91.c of the Basic Law.



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