

Reversing the burden of proof in bureaucracy – a step in the right direction

Michael Holz, Dr Annette Icks and Hans-Jürgen Wolter

At its meeting in early July 2026, the German Federal Government's coalition committee agreed to reverse the burden of proof for reporting requirements. In future, as is already the case in North Rhine-Westphalia (NRW) and Baden-Württemberg, reporting requirements for public authorities are to be scrapped as a matter of principle unless the responsible ministry officials can demonstrate that they are essential. But is this really the right way to cut red tape effectively?

For more than two decades, successive federal governments of different political persuasions have launched a succession of initiatives aimed at reducing the bureaucratic burden on businesses and improving the quality of legislation. Yet businesses have repeatedly found these measures insufficient. Our surveys over recent years tell a similar story: many business representatives say they are no longer able to comply with all the bureaucratic requirements imposed not only by the state, but also by business self-governing bodies, standards organisations and actors along value chains.

In our view, the coalition government's current initiative could, for the first time, achieve a significantly broader impact and provide more substantial relief than previous legislative efforts to reduce the burden of bureaucracy. The reform addresses a key source of bureaucratic burden that has been a longstanding source of frustration among business owners and managers: the perception of excessive state scrutiny and a lack of trust in businesses.

Under the coalition parties' plans, one in four documentation requirements is also to be abolished, alongside the removal of reporting requirements, while data protection rules are to be simplified. If the Federal Government implements these measures consistently, despite the predictable objections from various interest groups, they could significantly reduce the bureaucratic burden arising from federal legislation. According to our 2025 IfM study, "Bureaucratic Burdens



in Occupational Health and Safety – Experiences from the Mechanical and Plant Engineering Sector", 64% of the legal requirements that businesses had to comply with were based on federal law. By comparison, only 4.5% were based on state-level legislation. This figure excludes information and reporting requirements based on federal or EU law that must nevertheless be fulfilled vis-à-vis state authorities.

The bureaucracy-reduction initiatives in North Rhine-Westphalia and Baden-Württemberg are welcome. But a consistent and timely implementation of the coalition government's decision at federal level would deliver greater momentum and broader relief. Other federal states and the European Commission should likewise reverse the burden of proof for their regulatory requirements to systematically reduce bureaucracy.

In terms of effectiveness, federal legislation is expected to introduce an "expiry date" for reporting requirements, as is already planned in North Rhine-Westphalia (2027) and Baden-Württemberg (2028). Businesses should nevertheless be informed at an early stage whenever reporting requirements are due to be abolished. This is essential to provide planning certainty and allow companies to adapt their software systems accordingly. In our view, an independent oversight body should also review ministries' justifications for retaining reporting requirements against a clearly defined set of criteria. These should include the necessity, proportionality and practical impact of each requirement. Where a ministry cannot demonstrate that a reporting requirement remains necessary, the requirement should lapse. New Zealand's experience could provide a useful model. Under the principle of "regulatory stewardship", ministries are required to regularly review the continued need for existing regulations, involving key stakeholders, and to amend or repeal them where appropriate. Crucially, this review should be proactive rather than triggered by complaints from businesses.

To ensure that ministries' decisions to retain reporting requirements are transparent and accountable, we believe they should always be published. At the same time, retained reporting requirements should be reviewed to determine whether they can be digitised and thereby reduce the burden they impose on businesses.

In addition to the reversal of the burden of proof, however, the establishment of a "culture of empowerment" within public authorities is also of central importance for reducing bureaucracy: in future, staff should be explicitly encouraged and empowered by upper management to make greater use of their decision-making

powers in order to speed up procedures and reduce bureaucracy. Should this occasionally give rise to external criticism or objections, it is important that staff receive reliable 'backing' from upper management. Our research shows that a more service-oriented approach can pay off in many ways, for example by speeding up and simplifying commercial building permit procedures. By doing so, local authorities not only help to safeguard and create jobs in their regions, but can also generate significantly higher business tax revenues. Companies that regularly submit planning applications take the efficiency of local authorities into account when deciding where to locate planned investments – and share their experiences within their business networks.

All of these measures constitute important steps towards a fundamental and forward-looking paradigm shift in legislation and public administration: away from the traditional "command and control" model and towards a trust-based "enable and motivate" approach. Such an approach is also more consistent with the way in which the state, businesses and citizens should interact and cooperate in a modern democratic society.

Dr Annette Icks and **Hans-Jürgen Wolter** are project managers at the Institut für Mittelstandsforschung Bonn, while **Michael Holz** is a research associate. All three have been researching issues relating to reducing bureaucracy in the Mittelstand, among other topics, for several decades.