



German
Economic
Team

Drafting new laws: description of the administrative process in Germany

by Dr Alexander Knuth

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TECHNICAL NOTE
UZBEKISTAN

About the German Economic Team

Financed by the Federal Ministry for Economic Affairs and Climate Action, the German Economic Team (GET) advises the governments of Ukraine, Belarus*, Moldova, Kosovo, Armenia, Georgia and Uzbekistan on economic policy matters. Berlin Economics has been commissioned with the implementation of the consultancy.

**Advisory activities in Belarus are currently suspended*

CONTACT

Woldemar Walter, Project Manager Central Asia

walter@berlin-economics.com

German Economic Team

c/o BE Berlin Economics GmbH

Schillerstraße 59 | 10627 Berlin

Tel: +49 30 / 20 61 34 64 0

info@german-economic-team.com

www.german-economic-team.com

Our publications are available under

<https://www.german-economic-team.com>

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1. Introduction

The Institute for Macroeconomic and Regional Studies of Uzbekistan is drafting a law on SME and Entrepreneurship. The German Economic Teams was asked to support this process by providing information on international best practices. This Technical Note serves one of the support requests, which is to provide recommendations on how the public consultations on the draft SME law can be administered efficiently and transparently.

Section two first briefly outlines the German government's legislative procedure as a best practice example. The Annex presents a proposal for a template for cover page of a draft law.

2. Legislative procedure of the German Federal Government

2.1 The legislative process of drafting a law by a ministry

In Germany, the legislative initiative can originate from the Federal Government, the Parliament or the Bundesrat (the Bundesrat is the federal council that represents the sixteen federated states of Germany at the federal level) Here, we will only address the case in which the Federal Government proposes a law.

The following table 1 summarises the administrative steps in the development of the draft law. Some of the steps specific to the German federal system are intentionally omitted from the table to reduce complexity. The aim of this overview is to highlight at which stage in the process the public consultations take place according to German practice.

Table 1: Overviews of steps of legislative procedure of laws drafted by a ministry

No	Step	Comment
1	Notification of the Federal Chancellery about the initiative	The Federal Chancellery must be informed when a draft law is to be prepared. It must be informed about the status of the draft and the planned timetable for the legislative process. The Federal Chancellery must be informed if work on the draft bill is influenced by important events.
2	Division (smallest units in German ministries) creates the 1 st version of the draft law	The responsible division within the responsible ministry creates a first draft of the new law.
3	Discussion <u>within</u> the ministry	All relevant divisions in the responsible ministry discuss the draft law and propose changes if needed. In case the divisions do not reach a common solution, the responsible state secretary (deputy minister) or the minister decides on changes.
4	Division creates the 2 nd version of the draft law	The responsible division within the responsible ministry updates the document taking into account the results of the discussion within the ministry.

5	Discussion with other line ministries	All line ministries whose domains are affected by the new law discuss the draft at division level.
6	Division creates the 3 rd version of the draft law	The responsible division within the responsible ministry updates the document taking into account the results of the discussion with other ministries.
7	Ministry of Justice reviews the draft	The Ministry of Justice reviews the legal language and formalities.
8	Division creates the 4 th version of the draft law	The responsible division within the responsible ministry updates the document taking into account the review of the Ministry of Justice.
9	Adoption by the ministry	All relevant divisions of the responsible ministry must agree on the 4 th version of the draft.
10	Publication on the internet	The draft law is published on the website of the responsible ministry. Press and media will be informed.
11	First round of participation: Written comments	Associations, Chambers of Commerce, Unions and other Stakeholders are invited to comment on the draft law. The comments are published online.
12	Second round of participation: consultations	The responsible ministry invites important stakeholders (Associations, Unions, Chambers, experts etc.) to discuss the draft und the comments on the draft in person. Consultations may take place in form of a conference. In this case, the ministry presents a summary of all written comments at the beginning of the conference. The results of the conference are usually published online.
13	Division creates the 5 th version of the draft law.	There is no obligation to implement the changes requested during the participation phase. In case changes are implemented, all relevant divisions within the responsible ministry, the Ministry of Justice and all affected line ministries have to agree on the changes, i.e. have to adopt the new version of the draft law.
14	Cabinet of ministers discusses the draft law, signs the draft law and sends it to the parliament.	
15	<i>In Germany, the parliament can hold further consultations with stakeholders and experts on its own initiative.</i>	

Sources: own display

2.2 Formal requirements for the draft law document

In Germany the document presenting the draft law must follow a certain structure, which is outlined below:

2.2.1 Preface

The Preface should not exceed 2 pages and contains:

1. Problem and objective
2. Solution
3. Alternatives
4. Budgetary expenditure without implementation and compliance cost
5. Compliance costs for citizens
6. Compliance costs for businesses
7. Implementation costs for the administration and authorities
8. Further costs
(in particular other costs for the economy, costs for social security systems, effects on individual prices and the price level, in particular on the consumer price level)

2.2.2 Text of the law

1. Title
2. The introductory formula

Every law must have an introductory formula. It informs about who passed the law, whether the law requires a special majority and whether it requires the consent of the Bundesrat. The introductory formula is placed after the heading and after the line for the date of entry into force.

3. Provisions of the law
4. Consequential amendments in other laws and, for the purpose of legal clarification, the repeal of obsolete provisions

2.2.3 Explanatory justification

1. The objective and necessity of the draft law and its individual provisions
2. The underlying facts on which the draft law is based and the sources of knowledge on which it is based
3. Whether other possible solutions exist and whether it is possible for the task to be carried out by private parties, and if so, which considerations led to its rejection
4. Whether notification obligations, other administrative obligations or authorisation requirements with corresponding state monitoring and authorisation procedures are introduced or extended and which reasons

speaking against replacing them with a legal self-obligation of the norm addressee

5. Legal consequences
 - a. ex-ante impact assessment for the intended impacts and the unintended side effects
 - b. impact on state revenues and state expenditures
 - c. implementation and compliance costs for authorities, businesses and citizens
 - d. costs for small and medium-sized enterprises
 - e. other costs for the economy
 - f. impact on prices and inflation
6. What considerations underlie the implementation date, for example for enforcement in organisational, technical and budgetary terms, and whether the law can be temporary
7. Whether the bill provides for legal and administrative simplification, in particular whether it simplifies existing provisions or makes them obsolete
8. References to and compatibility with European Union law
9. To what extent, in the case of the implementation of a directive or other legal acts of the European Union, further regulations are made beyond their requirements
10. Whether the draft law is compatible with international treaties concluded by Germany
11. The amendments to the current legal situation

Annex: Proposal for a template for the cover page

Name of the responsible ministry or
the institution that is currently responsible for the document

“DRAFT LAW”

Title of the law

Document version as of: *Date*

Number of the document version:

Number of pages:

Status of the document: *published on the website <http://...>; in consultation phase etc.*

Deadline for comments: *Date*

Time schedule for further steps:

Sources

Manual for the preparation of legal and administrative regulations

https://www.verwaltung-innovativ.de/DE/Gesetzgebung/Projekt_eGesetzgebung/Handbuecher_Arbeitshilfen_Leitfaeden/Hb_vorbereitung_rechts_u_verwaltungsvorschriften/hb_vorbereitung_rechtsvorschriften_node.html *(in German)*

Joint Rules of Procedure of the Federal Ministries

https://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_21072009_O11313012.htm *(in German)*