

Note on Normal efficient transposition (NET)

Measurement data and analysis  
as specified in the specific contracts 5&6 on Modules 3&4  
under the Framework Contract n° ENTR/06/61

EU PROJECT ON BASELINE MEASUREMENT AND  
REDUCTION OF ADMINISTRATIVE COSTS

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## Concept and terminology

As described in the EU SCM manual a mere reference to the type of EU act (Regulation or Directive) is not sufficient to determine if the Member States have discretion to implement the act and the IOs in the act or not. In order to determine which authority is responsible for imposing which obligation (regulatory origin) and as a consequence which authority has the possibility and responsibility to influence which administrative cost and burden, it is necessary to examine the content elements of the EU IO and the national IO implementing and transposing them.

Costs imposed by information obligations at national level which correspond strictly to the definition given in an EU legal text or to normally efficient transposition can be attributed to the EU (what is required). However Member States may still be responsible for administrative costs stemming from inefficiency in their implementation / transposition of such EU IOs (how the IO is implemented). Implementing approaches often widely differ: prefilled on line forms in Member State A vs. blank paper based forms in Member State B. One stop shops in Member State C vs. several decentralised authorities in Member State D. Etcetera. Some administrative procedures are lighter than others and the assessment of the origin of the administrative costs should reflect that reality.

There are various methodological approaches for assessing the overall level of inefficiency in the transposition of legislation. For the purpose of this program a pragmatic method has been developed that produces reasonably conservative results that indicate the level of inefficiency in the transposition. This pragmatic method builds on a key concept in the (EU) SCM: the "normally efficient business".<sup>1</sup>

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<sup>1</sup> The EU SCM provides estimates for the normally efficient business. This is taken to mean businesses within the target group that perform administrative activities required by the information obligation neither better nor worse than may be reasonably expected. This refers to a 'normal' number of hours, the 'normal' level of qualification required by the main actions and the 'normal' labour cost per hour including prorated overheads (expenses for premises, telephone, heating, electricity, IT equipment etc.). Outliers (i.e. businesses that are greatly below or above the other performances) are not accounted for.

The definition of the 'normally efficient transposition' refers to the efficiency of the system put in place by public authorities in the Member States to implement or transpose EU IOs.

Due to the chosen method in the project (measurement in only a selection of countries), it is important to mention that all quantitative approach on the normal efficient transposition has delivered figures that are a rough estimate of the inefficiency in transposition. The data is not reliable enough to draw further detailed conclusions:

- The calculation is based on input from 6 measurement countries (and to some extent on input from up to 5 BLC). Thus it can not be guaranteed that the normal efficient transposition has been identified, as there might be different (more efficient) processes in the 16 remaining MS. There might be different processes how to handle one IO on national level (i.e. one with the involvement of an external service provider and one without).
- National structures will influence whether the normally efficient transposition can be assessed to be applicable to a Member State (as an example e-government solutions can not be seen as normal efficient transposition in Member States where businesses have limited access to IT infrastructure).
- The analysis can only be done on the level of IOs, not on the level of the system of a PA within a Member State.

#### Calculation approach

The method chosen to calculate the costs representing the 'normal efficient transposition' within the EU SCM project was to use the weighed average of the total costs P (per IO and per segment) of the measurement countries and comparable data of BLC. The P is weighed to exclude the effect of different tariffs amongst Member States the costs ( $P = \text{total costs per IO and segment} / \text{average tariff per MS}$ )<sup>2</sup>.

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<sup>2</sup> While calculating the effect of the normally efficient transposition the Consortium also experimented with several other calculation approaches (e.g. defining the NET based on the best performer MS, based on the second best performer, etc.). It was decided to use the more 'conservative' average approach as it would be unreasonable to consider that only 1 out of 27 Member States is efficient (NET based on best performer).

The costs above the ‘normal efficient transposition’ are calculated as follows:

- For each measurement country and BLC with comparable data the total weighted costs (per IO and segment) are compared with the weighted average.
- The costs above the average are summed up and divided by the total weighted costs per IO and segment for the measurement countries and BLC. It should be clear that abnormally high efficiency in a Member State does not compensate for abnormally low efficiency in another Member State.
- The outcome is an average share of costs above “normal efficient transposition” per IO and segment.
- This share is applied to the total costs per Priority Area.

The table below shows the result of the calculation.

Table 1: Share of costs above the normal efficient transposition

Priority Area	Share of costs above normal efficient transposition	Administrative costs stemming from EU Requirement	Administrative costs above normal efficient transposition
AGRICULTURE	37.0%	12,719,000 €	4,711,118 €
AGRICULTURE_SPS	31.2%	3,995,279,000 €	1,246,127,520 €
ANNUAL ACCOUNTS/ COMPANY LAW	16.3%	25,271,932,000 €	4,119,324,916 €
COHESION POLICY	40.4%	929,125,000 €	374,994,850 €
ENVIRONMENT	16.2%	727,372,000 €	117,979,738 €
FINANCIAL SERVICES	29.9%	1,357,720,000 €	405,822,508 €
FISHERIES	39.6%	79,696,000 €	31,543,677 €
FOOD SAFETY	21.9%	5,501,385,000 €	1,204,803,315 €
PHARMA	17.8%	920,403,000 €	164,199,895 €
PUBLIC PROCUREMENT	45.2%	234,223,000 €	105,798,529 €
STATISTICS	31.0%	628,881,000 €	194,701,558 €
TAX LAW (VAT)	30.2%	79,512,106,000 €	24,020,607,223 €
TRANSPORT	38.3%	3,104,506,000 €	1,188,404,897 €
WORKING ENVIRONMENT	50.2%	4,260,634,000 €	2,138,412,205 €
<b>TOTAL</b>	<b>27.89%</b>	<b>126,535,984,000 €</b>	<b>35,317,431,948 €</b>

This table is based on data collected by the Consortium.

Generally speaking Member States are responsible for administrative costs resulting from gold-plating (costs stemming from national requirement going beyond EU requirements<sup>3</sup>) and for costs stemming from inefficiency in their implementation / transposition of EU

<sup>3</sup> Section 5.1.1.3 provides detailed information on the definition of national obligations going beyond EU requirements.

IOs. The calculation shows that approximately 28% of administrative costs can be attributed to the national level due to inefficiencies as compared to normally efficient transposition. In addition, 4% of costs stem from national obligations going beyond EU requirements.

This gives a total of 32% of all administrative costs that can be attributed to the national level.

This approximation (~32% of the costs to be attributed to national level) seems a reasonable result.

The content of EU legislation usually gives a sizeable level of discretion to the Member States for its implementation.

Results from the most recent national BLC measurements regarding the amount of costs that can be classified as costs of international origin with national discretion (category B) shows similar percentages<sup>4</sup>.

In Austria the ratio of costs classified as of international origin without national discretion compared to costs of international origin with discretion for the Member State is 1:3. On the basis of this ratio, 33% of administrative costs of EU origin should be attributed to EU institutions and 66% to national authorities.

The Dutch reduction programme shows that there is in many cases a large reduction potential when improving administrative procedures (the Netherlands already achieved a reduction of 25% of the administrative costs and have set a second reduction target of another 25%). A reasonable assumption can be that half of current administrative costs imposed by national implementing or transposing measures is the result of inefficiencies (i.e. no use of electronic means, etc. ), taking into account that the level of performance of the Dutch state is above average<sup>5</sup>.

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<sup>4</sup> Even though the classification used in the BLCs is of a different nature compared to the concept of the normally efficient transposition, a high level comparison of the data is reasonable, given the strong relation between the concepts

<sup>5</sup> See several international studies i.e. Worldbank: The Worldwide Governance Indicators (WGI) project; <http://info.worldbank.org/governance/wgi/index.asp> or the IMD world competitiveness yearbook 2008, <http://www.imd.ch/research/publications/wcy/index.cfm>

A certain level of inefficiency is inherent to large and complex systems. Inefficiency can never be totally suppressed for various reasons. Thus the calculated % of inefficiency as compared with normally efficient transposition should not be mistaken with a reasonable administrative burden reduction objective.