Digital Public Service Provision Needs Digitally Compatible Law

The Modular Concept of Income

Executive Summary

Key messages

1

Digital administrative procedures can only become user-friendly and efficient if data is retrieved in a precisely tailored manner.
It is important to use data that is available in registers and specialised processes across administrative procedures. The accuracy of the data in terms of content must be improved in such a way that the data that are already available to public service officials must be provided only once by those concerned. This is the only way to implement the Once-Only principle.

2

Mutual adjustment of legal and technical requirements is necessary.
The legal concept of income is extremely context-specific and detailed. In addition to linguistic differences, there are also deviations in content. The result is that various public authorities understand the supposedly identical concept of income differently. However, an optimal exchange of data between the registers and specialised procedures requires that the same content be found in data fields with the same name.

3

Linguistic standardisation and modularisation across procedures offer a route towards a digitally compatible concept of income.
The various legal concepts of income – despite differences in detail – largely follow a similar basic structure and use common conceptual elements that can serve as a starting point for modularisation.

4

A standardised modular system enables a perfect fit between legislation and technology.
For the purposes of modularisation, the legal terms are to be broken down into their components and unambiguously designated in terms of language across all procedures. The modules and submodules created by the decomposition can then be combined as desired - as in a modular system - depending on the technical context („harmonisation through modularisation").

5

Conceptual deviations must be reflected in the databases.
However, legal harmonisation alone is insufficient for income data to be exchanged easily across procedures. At the same time, the modules and submodules must be compared with the existing databases in the respective registers and specialised procedures. The modules and submodules used in legislation must be reflected accordingly in the data fields. Eventual deviations must be adjusted.

6

The Data Dictionary and the Data Repository serve as central tools for the precise matching of legislation and technology.
The content of the legal terms is clearly described in the data dictionary. It also specifies in which registers and specialised procedures these legal terms are mapped in data fields and who is responsible for them. Based on this, the technical data structure of individual term modules is defined in a data repository.

7

It is necessary to take stock of the body of legislation with regard to its digital compatibility.
In order to make Once-Only a reality and to enable a cross-procedural exchange of data, the digital compatibility of the existing body of legislation must be improved; otherwise, the interconnection of the databases, especially during implementation of the Online Access Act (OZG), will remain an unattainable aspiration.

8

A mandatory digital compatibility assessment for legislation must be conducted during the legislative process.
The focus of this digital compatibility assessment must be on the reuse of well-defined legal term modules and the creation of necessary process flow diagrams with their data fields, data interfaces and technical procedures required during implementation.

9

The harmonisation of the body of legislation is the key to making legislation digitally compatible.
It is on an equal footing with the other important components of the digital transformation of public services, such as the Online Access Act, register modernisation and the central company register. The aim must be to apply the modularisation and building block concept to all essential legal terms. A start should be made with the analysis of the required data fields and data interfaces for the digital exchange of data on income modules as part of the ELFE project (German acronym for "Simply Services for Parents").

10

The digital compatibility of the legislation must be established as a legal principle.
Digital compatibility must find its way into legal methodology. At the same time, there is a need for a critical debate about the legislature's pursuit of individual justice. This pursuit is a main driver for the complexity of legislation, of its enforcement and it means that, due to the over-complexity of the application process, that citizens and companies do not make use of public services that they are entitled to. Reducing over-complexity through typifications guarantees more justice and equal treatment of all those concerned.

Introduction

The legal terms used in legislation are the basis of all administrative action. When a public authority makes an administrative decision, it is based on a legal foundation. In making their decision, public officials must evaluate in each individual case whether or not the requirements laid down by the legislation are met in the facts of the case. When a citizen applies for a state benefit, for example, this can only be granted if the legal requirements for granting the benefit are met. These requirements are regularly determined by legislation through legal terms that need to be specified. The content of these terms is filled in using definitions. These are therefore an essential criterion for the application of the legislation.

The expert report „Digital Public Service Provision Needs Digitally Compatible Law – The Modular Concept of Income" [1] answers the following question: How can we succeed in simplifying public service provision by defining legal terms in a uniform manner? Using the example of the concept of income and the associated procedures for public service provision, the expert report explores the answer to this question.

Why should legal terms be harmonised?

Legal terms are often used not only in one area of legislation, but in several. However, they are by no means always understood in the same way. The definitions differ in many ways.

This is shown well by the term "income". The respective income is a central characteristic in the granting of many state benefits. In many cases, it is determined on the basis of income whether a person is in need and thus entitled to receive means-tested benefits such as basic security benefit, housing benefit, BAföG (financial support for higher education students), supplementary child allowance, etc. In other areas of administrative law, the respective income is used to determine whether and in what amount the citizen has to pay levies to the state, e.g. income tax, or to contribute financially to the expenses, e.g. integration allowance for people with disabilities.

In all of these areas it is individually determined by legislation which aspects are to be taken into account when determining income. Not every piece of legislation defines the term completely independently. Rather, in many cases reference is made to the definition norms of another legislation. It is noticeable that it is often not just a reference. Instead, the amount referred to in the statutory reference is further specified: Individual earnings that are specified in more detail are added or deducted separately, unlike in the legislation to which reference is made. In some cases – although rather seldom – reference is made (in a blanket manner) to the definition of another legislation without any restrictions. Against this background, the legally used concepts of income can be divided into three categories:

- Constitutive definitions: The legislation defines the concept of income for the scope of application of the legislation completely independently. All elements to be taken into account when determining income are explicitly named.
- Full reference: The legislation refers to the provisions of another legislation for the definition of income and does not make any separate regulations on income.
- Modifying (partial) references: The legislation refers as a starting point to part of the income definition of another legislation. The feature that can be derived from this is, however, supplemented by further aspects. The concept of income in the other legislation is thus modified. Ultimately, a separate understanding of the term arises.

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1 German title „Digitale Verwaltung braucht digitaltaugliches Recht – Der modulare Einkommensbegriff".

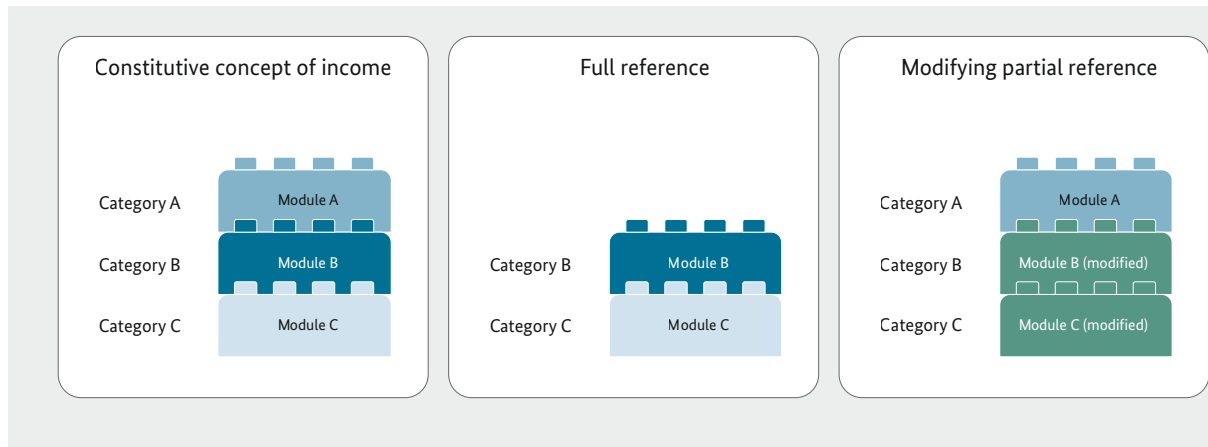Fig. 1: Categorisation of the legally used concepts of income

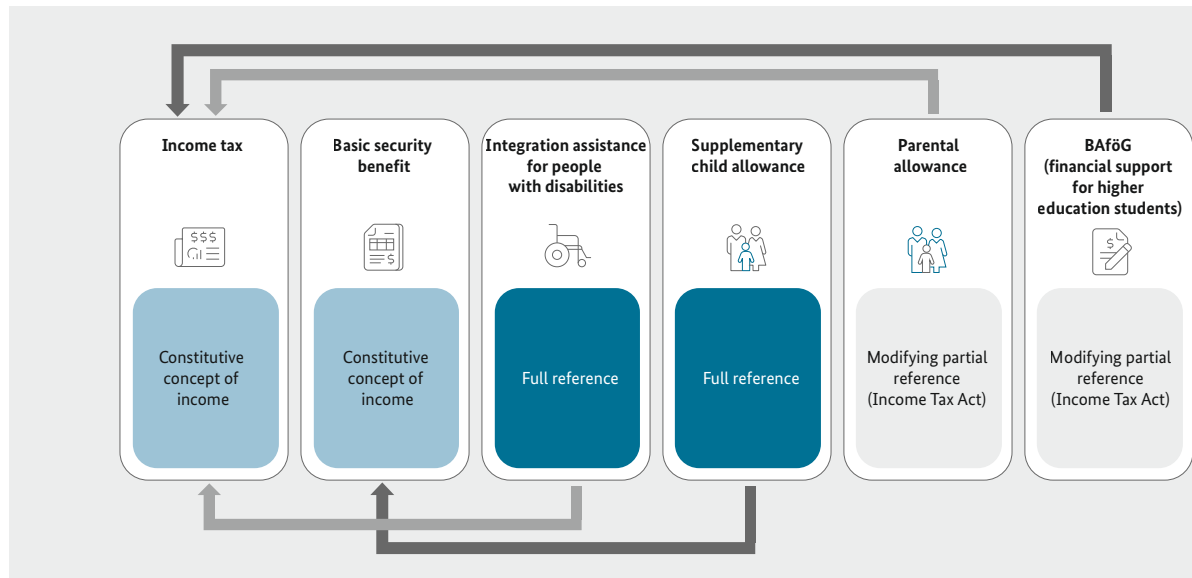These forms of definition can be found, for example, in the six areas shown below:

Fig. 2: Overview of the concepts of „income"

If one breaks down the concepts of income of these six areas into their individual parts, it can be seen that almost all definitions follow the same structure:
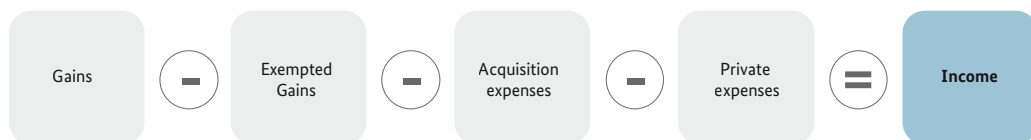

Fig. 3: Elements of the concept of income

This joint structure serves as the starting point for possible harmonisation approaches. In detail, however, the four conceptual elements are designed very differently. These – sometimes considerable – deviations between the individual elements make the exchange of data between the authorities very difficult, as the individual conceptual elements always include different values, so that the results in the various areas are almost never the same. These detailed differences can be shown by way of example by comparing the private expenses to be taken into account..

	Income Tax	Basic security benefit	Supplementary child allowance	Parental allowance	BAföG (financial support for higher education students)	Integration assistance
Paid taxes						
Church tax	+	+	+	+	+	–
Income tax, solidarity surcharge		+	+	+	+	–
Trade tax	–[2]	+	+	–	+	–
Expenses for oneself						
Pension provisions	+	+	+	+	+	–
One's own training	+	–	–	–	–	–
Extraordinary expenses	+	–	–	–	–	–
Expenses for other people						
Childcare expenses	+	–	–	–	–	–
School fees	+	–	–	–	–	–
Maintenance of separated spouses	+	+	+	–	–	–
Childcare expenses	–[3]	+	+	–	–	–
Pension payments, etc.	+	–	–	–	–	–
BAföG allowance (financial support for higher education students)	–	+	+	–		–
Parental support	(+)	+	+	–	–	–

Fig. 4: Comparison of private expenses to be taken into account

2 But (flat-rate) credit according to § 35 EStG (Income Tax Act) on the collectively agreed income tax..
3 Consideration via income tax child allowance

The comparison shows how diverse the terms in the sub-areas are. However, it also becomes clear that further categorisations can also be made within the four large sub-elements, which are then regulated (almost) congruently in some areas.

Starting with the four main elements, the individual concepts of income can be subdivided into modules, submodules, sub-submodules, etc. and thus be given a clear structure. As an example, this principle is demonstrated in the following illustration, for a part of the income tax term.
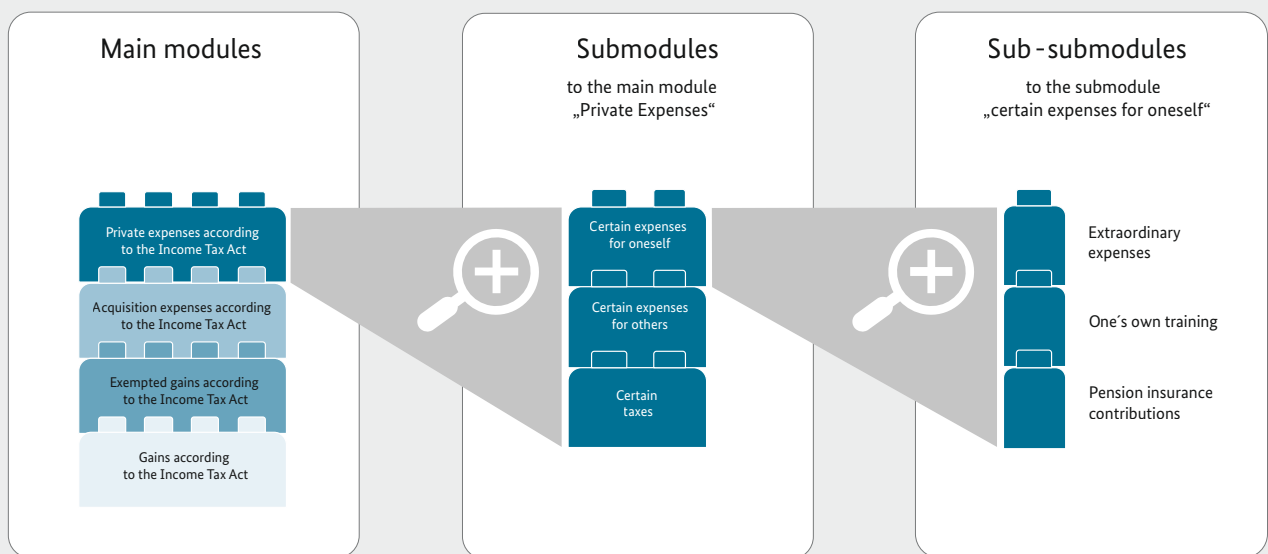

Fig. 5: Modular concept of income using the example of the Income Tax Act

The importance of legal terms for a simpler (digital) public service provision

In the last few years, numerous legal bases have already been created in Germany with a view to making public service provision more efficient and digital. These include, for example, the Online Access Act (OZG), the Register Modernisation Act (RegModG) and the E-Government Act (EGovG). The reduction of bureaucracy and the secure exchange of data between authorities are central themes in legislation that address digital public service provision. These legislative initiatives were also guided by the harmonisation of databases, the improvement of data quality and data reuse as well as the use of uniform IT procedures and software.

In addition, the Once-Only principle established at European level calls for a data architecture that is harmonised across all procedures in order to unburden citizens, companies and public administrative resources. The Once-Only principle is intended to enable public service users to transmit the necessary data and evidence to an authority only once. The authorities should retrieve the required data and evidence from registers or obtain them manually or automatically from other authorities.

With the initiated digital transformation, the expectations of many citizens and political decision-makers are rising when it comes to public services. For citizens, issues such as digital access to public services and user-oriented service provision are essential. Citizens and public authorities experience digital public service provision differently: Citizens can fill in and send digital applications for administrative services online, the authorities can process the incoming applications with the help of specialised IT procedures.

In the public administrations of Germany there are several hundred registers and several tens of thousands of IT-based specialised procedures that are purpose-specific and so far largely independent of one another. Information and data are recorded, processed and stored in the registers and specialised procedures. The collection of information and data is usually determined by legal provisions, case law, but also by administrative practice.

However, the (historically grown) complex body of legislation makes the implementation of numerous digital policy projects more difficult. Added to this are the sometimes vague and inconsistent definitions of central legal terms. Over time, some (new) terms have emerged and become established in the various procedures for certain public services that cannot be readily understood outside of the public administrations' own procedural realms. If legal terms have multiple meanings or are understood and used differently in different contexts, they complicate the exchange of data between authorities, i.e. the retrieval of data from another authority or body for reuse in one's own operations, since everyone understands something different by the supposedly same term.
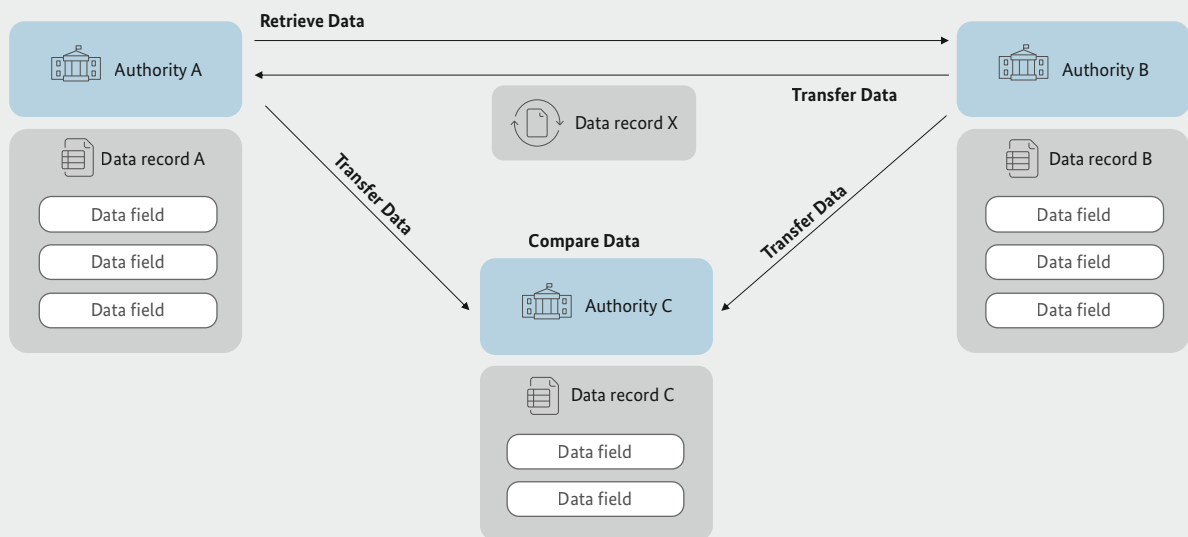
Fig. 6: Data exchange between authorities

It then becomes more and more onerous for authorities to deal with the deviations in content of identical or similar legal terms in different contexts. Bureaucratic burdens increase, the accuracy of administrative decisions by public service providers decreases and the application of the existing set of rules is becoming more error-prone. In addition, it is becoming increasingly difficult for citizens to understand the law and the administrative decisions derived from it.

In the discussion about the digital transformation of public services, the digital compatibility of existing legislation therefore plays a role.[4] According to this expert report, legislation is digitally compatible if the meaning and the definitions of legal terms are harmonised across legal areas. This can be done by means of modularisation, i.e. the legal terms are broken down into their components, i.e. (sub-)modules. These (sub-)modules are standardised and thus clearly defined so that they are always understood and used in the same way in the most varied of legal contexts. If the generic term, for example the concept of income, is not standardised, at least its respective components can be standardised and thus reused.

The reuse and thus the ability to reference data is a central aspect for more digitally compatible legislation and for a modern digital administrative enforcement. In order to enable the reuse of data, it is necessary to have a clear overview of the databases available in specialised procedures and registers at individual authorities (e.g. with the administrative data information platform or the register map).

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4   For the conceptual definition of the term see also: Competence Centre Public IT, Fraunhofer Institute for Open Communication Concepts FOKUS (ed.) (2019): From legislation to enforcement – and back again [online]. Available at: https://www.oeffentliche-it.de/documents/10181/96990/Vom_Gesetz_zum_Vollzug.pdf (Accessed: 1 June 2021).

Structured databases and clear data fields are very important for communication across authorities and procedures, especially for data exchange, checking and comparison. Currently, income-related data records and data fields can only be clearly identified in certain, narrower subject and authority contexts. For example, the rvBEA procedure offers pension insurance institutions the option of electronically requesting pay data from employers. Which data this is, results from the remuneration statement according to the remuneration statement regulation (EBV). It is specified in which form the payment data is to be transmitted via rvBEA. The data record DXEB consists of 74 data fields that have been defined by the data centre of the pension insurance. The procedure is a product with clear responsibilities and offers a data record with a nationwide uniform catalogue of data fields. Thus, rvBEA creates data fields that can be referenced: the values from the payroll can be applied to the tax assessment or used in various specialised procedures when calculating income. The basic idea of this procedure should therefore be extended to other areas of application and legal terms.

The larger and more extensive public administrative procedures become and the more authorities get involved, the more visible the problem of an inconsistent use of terms for data exchange becomes. This connection can be seen in the case of the ELFE project which seeks to digitalise public services for parents. The ELFE project aims to make administrative processes easier for parents, such as applying for a birth certificate, child benefit, parental allowance and a means-tested supplementary child allowance. Central to ELFE is the fact that, in principle, all the data necessary for an application for parental allowance is already available to public authorities before the application is submitted.
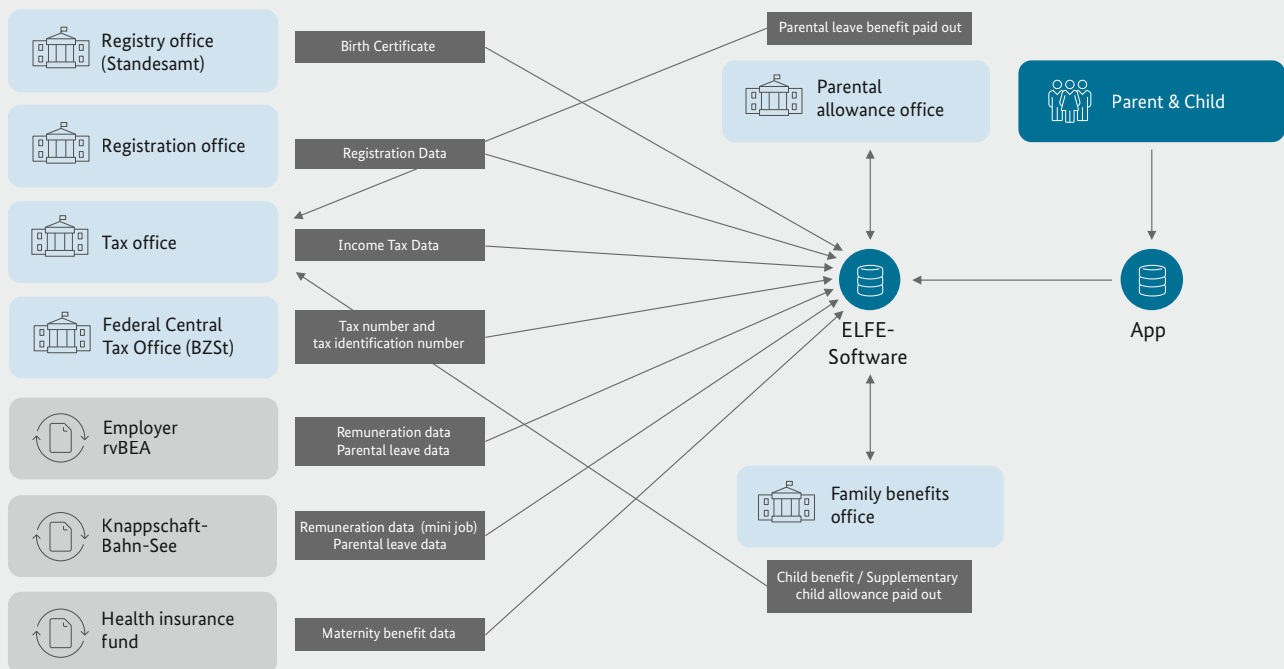

Fig. 7: Data streams in the ELFE target process

The operation of the target process shown in Fig. 7 remains limited at this time. Since the concept of income is not clearly defined and is interpreted differently among public authorities, and because public officials deal with this concept on multiple occasions, operational obstacles and communication problems arise frequently between public authorities.

The desired digital compatibility of legislation requires data hygiene by way of cross-procedural high-quality data that can be referenced. This means: Legal terms need a clear, distinct and therefore unambiguous definition across all procedures. Only then is it possible to translate the content of the legal terms into unambiguous data fields that are necessary for data exchange between authorities. How this can be achieved is explained in the following chapter.

Towards a digitally compatible concept of income

The most obvious and effective approach would be a comprehensive harmonisation of the concepts of income across all areas of legislation. However, this approach cannot be legally implemented because most of the existing differences are due to the fact that legislation may pursue different objectives. From these objectives and the associated principles (e.g. the ability-to-pay principle in tax legislation or the subordination principle in social legislation) it follows that, for example, different gains must be included and the deduction of private expenses may extend further or even less far. There are thus clear legal limits to the harmonisation, so that the approach of a comprehensive standardisation must be discarded.

In contrast, a model that makes use of the commonalities of the concepts of income highlighted in the comparative term analysis is promising. The concepts of income should be harmonised in a digitally compatible manner through the consistent introduction of a modular term system and additional typifications.

PERCEPTION

Modularised legal term
A modularised legal term can be broken down into its components in such a way that different areas of legislation can refer to these components across the board. As a result, a modularised legal concept enables a cross-legal field reference to each other and proves to be particularly suitable for digital interlinking of legal concepts (digitally compatible).

This harmonisation approach essentially contains three mandates to the legislature.
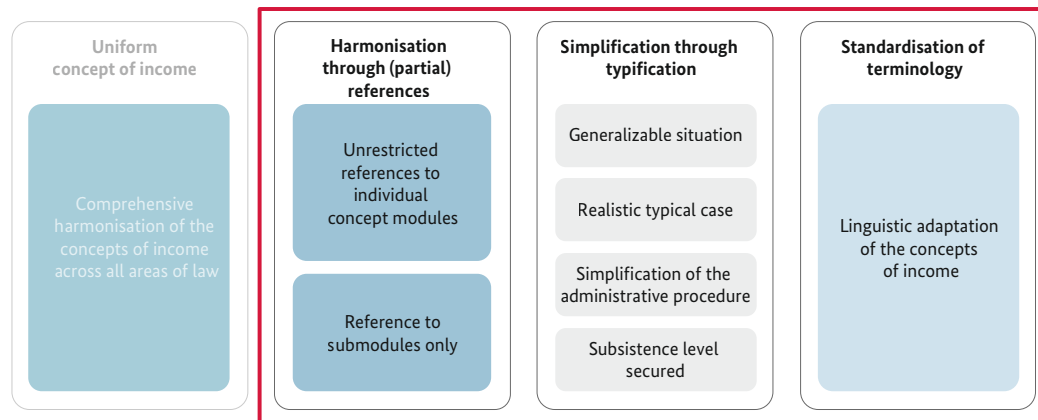
Uniform concept of income	Harmonisation through (partial) references	Simplification through typification	Standardisation of terminology
Comprehensive harmonisation of the concepts of income across all areas of law	Unrestricted references to individual concept modules	Generalizable situation	Linguistic adaptation of the concepts of income
	Reference to submodules only	Realistic typical case	
		Simplification of the administrative procedure	
		Subsistence level secured	

Fig. 8: Recommended legal adjustment options

Standardisation of terminology – linguistic modularisation

From a legal perspective, some obstacles to enforcement can be addressed by laying down a modularised concept of income in all areas of administrative legislation in which income becomes relevant as a legal term. This approach aims to linguistically adapt the existing forms of concepts of income so that common terms for common elements (modules or submodules) are found and laid down in legislation. In doing so, the identified common conceptual structure can be used as a starting point. It is only a matter of linguistic and legal-structural adjustments; the material content of the respective concept of income can remain completely untouched at this stage. The main advantages are that the resulting uniform linguistic (unambiguous) use of terms prevents misunderstandings when citizens provide data and when accessing and exchanging data on the part of the authorities and gives the concepts of income a clear structure overall. The latter can be used to design application forms.

Harmonisation through references

As explained, a comprehensive standardisation of the concept of income across all legal areas is not possible due to the different goals of the respective legislation. The terms could, however, be further harmonised by aligning partial aspects. This form of harmonisation is based on the modularised concept of income and makes use of it. If conceptual elements can be adopted from one of the constitutive concepts of income, reference must be made to these elements. This can be done by referring to an entire module or by using only one submodule. In this way, the respective superordinate legal terms can be assembled according to the modular principle on the basis of existing modules or submodules. A separate regulation in the individual legislation is then unnecessary. Modules that are not referred to will be further standardised for each area in the respective individual legislation. Here, too, the modularised concept of income is to be used so that the basic structure is recognisable in every piece of legislation.
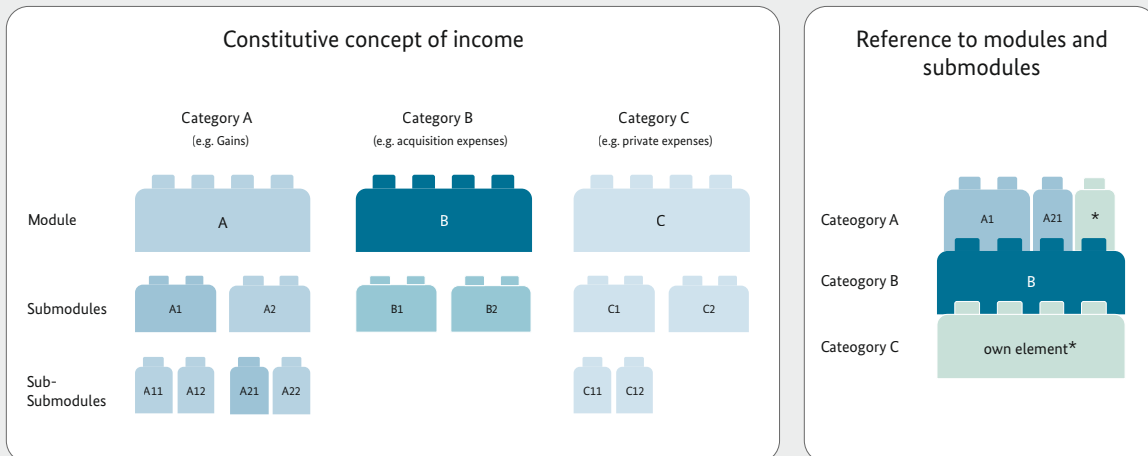
Fig. 9: Functioning of references in a modularised concept of income

This technology is already used in some laws, such as the Parental Allowance and Parental Leave Act (BEEG) or Social Code Book IX. If the modularised concept of income is implemented, these references can be made even more targeted and further promote harmonisation.

As far as the further requirements for data exchange between authorities are created, such clear references simplify the exchange of data. The clear references as a result of the modularisation make it possible to query the data record for the entire Submodules. No further onerous data collection is required for this area.

Using the partial references is particularly recommended because it allows for mapping area-specific features. The references are used for aspects for which there is no need for special rules in the respective legal area. If the legislature considers it necessary to create area-specific special rules at other points in the conceptual definition of the term, this is easily possible. The harmonisation via partial references is convincing due to this flexibility. Nonetheless, with every special regulation, it must be carefully considered whether it is really necessary. If a reference appears to be justifiable, the reference is to be preferred. Because every special regulation increases the administrative effort and makes the digital data exchange for this special regulation more difficult or even impossible.

Simplification through typifications

With the modularised concept of income and the partial references based on it, there are still some area-specific peculiarities in most of the concepts of income. This will primarily affect the private expenses module. However, even here, it is possible to take measures that simplify the application of existing provisions. Typification is recommended for this. Typifying regulations are suitable for partial aspects that affect many citizens and for which there are difficulties in providing evidence.

Typifications lead to tangible operational advantages: Burdens on citizens are greatly reduced in the application process as they do not have to submit any (or at least less) data for declaring their individual circumstances and, if necessary, provide evidence. For the authority, there is no need for time-consuming collection of data. On the part of the authorities, this frees up capacities for advising citizens or handling special cases. Typifications may lead to a somewhat lower level of individual justice, but at the same time many citizens are kept in view. Too much fairness on a case-by-case basis bears the risk of having to make administrative enforcement onerous for the citizens. This often results in detailed, complicated application forms that actually discourage citizens entitled to benefits from submitting an application. This can be seen, for example, in the reasons for not claiming basic security benefit or supplementary child allowance. In addition, simplifying typifications promote the digital compatibility of the legislation and serve the goal of data economy, because the individual citizen has to disclose less data.

PERCEPTION

The modularisation of the concept of income offers the following advantag:

• It ensures the uniform linguistic (unambiguous) use of terminology.
• The term receives a clearly visible structure that can be mapped in data structures.
• Clearly identified modules can be starting points for references.
• It does not necessitate further harmonisation.
• It promotes the digitally compatible design of the term and enables the Submodules to be translated into data modules and data fields.

The modularisation of the concept of income and the associated harmonisation of the databases offer a solution to improve the digital compatibility of existing legislation. Due to the subdivision into modules shown, the concept of income can also be more easily translated into a technical data structure. This is shown in the following figure using the example of federal parental leave benefit.
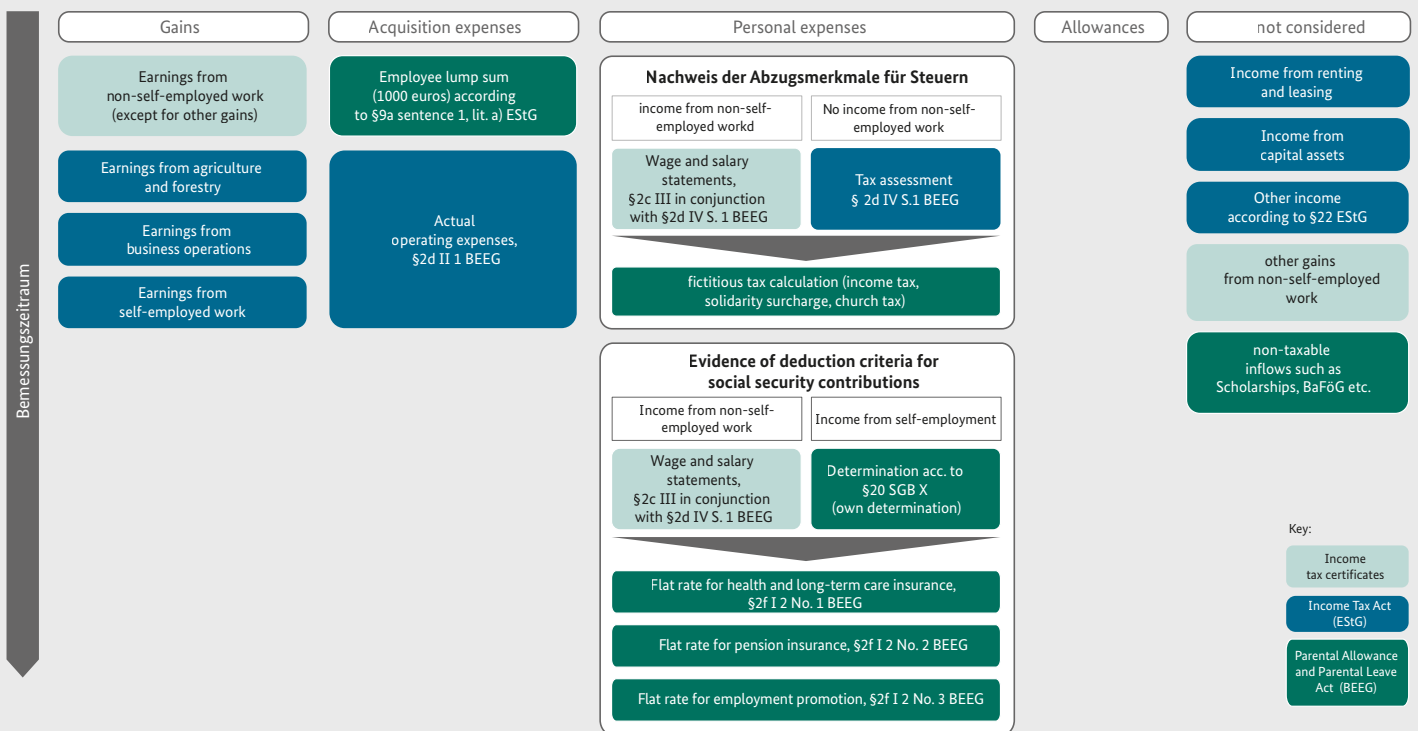
Fig. 10: "Income" as set forth in the Parental Allowance and Parental Leave Act (BEEG)

The cross-procedural use of Submodules and their associated data fields in the electronic registers and specialised procedures of public authorities reaches its limits in terms of legal principles as well as with regard to the reasons for charging and purposes of the respective administrative service. However, this does not prevent the large data streams associated with the recording of income from being used effectively and in the sense of a low-cost organisation of public services for the benefit of citizens and public administrations. The modularisation creates data-saving reference values that can still be differentiated according to the procedure.

RECOMMENDATIONS FOR ACTION

• A further analysis of the components of the concept of income (as shown in Fig. 10) in further administrative procedures is necessary for modularisation.
• A detailed analysis of legal terms in relation to administrative enforcement should also be carried out in other areas. Building on this, harmonisation based on the model of the modularised concept of income is also recommended

If the respective modules of the concept of income are defined in this way in unambiguous data fields and data records, cross-procedural links can be established for data exchange as set forth in the Once-Only principle. In order to harmonise the databases and use the potential of digital public service provision, national reference systems such as a data dictionary must be created, which public authorities will use. In this way, several players could use the terms with their associated data fields and data records in a uniform manner and interpret them clearly in the digital world.

DATA DICTIONARY

For the purposes of this expert report, a data dictionary is a glossary of terms and data.
In addition to the definitions of the meanings and concepts of the legal terms (data models based on term modules), the data dictionary also defines responsibilities and data sources.

- A data dictionary can hold legal term definitions that are defined in modules, it can be mapped in unambiguous data structures, integrate existing reference and operates in a decentralised manner.
- A data dictionary supports the negotiation process between the individual departments and specialist bodies.
- It contains necessary synonyms, cross-references and helps to avoid parallel developments of conceptual definitions.
- It shows any ambiguities that may exist and makes transparent where harmonisation of legal terms is possible or necessary.
- It forms the basis for the development of cross-procedural modules.
- It creates transparency about the responsibilities in the digital world.
- It is an intermediate step towards upgrading the FIM repository, where data structures can also be defined on the basis of the clear definitions of meaning and terms.

Based on the data dictionary, a uniform nationwide data repository is to be created in which the technical data structures relevant to legislation enforcement are stored. In doing so, existing projects and specialised procedures, such as OMS[5]; rvBEA, XÖV[6] standards, the process and data field repositories of the Federal Information Management[7] (FIM) can be built upon. All information relevant in the FIM repository for digital public service provision must already be taken into account in the legislative process: The information in the repository is either reused as new legislation is drafted or, if it is not available, it is newly defined for public service provision. For this purpose, a digital compatibility assessment must be carried out within the framework of e-legislation. For example, uniform and binding data models, responsibilities, data sources and technical data structures for the level public service provision could be defined for the concept of income on the basis of the concept modules..

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5   OMS (German acronym for "Optimised Reporting Procedure in Social Security") is a project of the Federal Ministry of Labour and Social Affairs (BMAS). Within the framework of the project, a data dictionary was developed that is used by all social insurance organisations for the maintenance and design of data structures for specialised procedures.
6 XÖV (German acronym for "XML in Public Administration") is an XML based standard for electronic data exchange in German public administration. XÖV is a federal standard that is maintained by the Coordination Office for IT Standards (KoSIT).
7 FIM is used to provide easily understandable information for citizens and companies (module services), uniform data fields for application forms (module data fields) and standardised process specifications for administrative enforcement (module processes) nationwide.

RECOMMENDATIONS FOR ACTION

- The cross-procedural and cross-competence consideration of harmonisation and modularisation should, as the example of ELFE shows, focus on the data exchange perspective. The cross-procedural and cross-competence approach plays an important role in stages 3 and 4 of the OZG maturity model.
- The income-related data streams such as rvBEA, ELSTER[9] and DEÜV[10] have to be visualised in order to determine references to individual administrative procedures. The existing data fields are to be continuously compared across all relevant areas of responsibility in a cross-procedural manner
- The result should be data fields that can be unambiguously referenced across all procedures. In order to strengthen the interface between the legislation and the technical design, a binding valid recording of the definitions of meaning and terms in the form of legal term modules in a data dictionary is to be made. The administrative data information platform (VIP) or the register map can serve as a navigator for determining the data sources. The more automated and simpler the data exchange is to be, the more important the semantic, but also the technical standardisation.
- Data architecture and information on the technical data structure should already be taken into account in the legislative process.

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8   The maturity model measures the degree of online availability of individual Online Access Act (OZG) services in levels 0 to 4: At level 0, a public service provider website does not offer any information about a service. A performance can be viewed online at level 1 and processed as an application form from level 2. From level 3, citizens can submit an application for a state benefit online and submit the corresponding evidence digitally. In stage 4, the public service is provided completely digitally and in accordance with the Once-Only principle. According to the OZG, public services must reach at least level 3 by the end of 2022. OZG: Digital public services as set forth in the OZG [online]. Available at: https://leitfaden.ozg-umsetzung.de/display/OZG/2.2+Digitale+Servi-ces+im+Sinne+des+OZG (Accessed: 3 May 2021).

9   ELSTER (German acronym for "Electronic Tax Declaration") is a German online tax office system designed by the Federal Central Tax Office (BZSt) to enable anyone to submit their tax returns online.

10 DEÜV (German Acronym for "Data Collection and Transmission Act") determines the extent to which data relevant to social insurance are to be collected by employers and sent to the appropriate insurers.
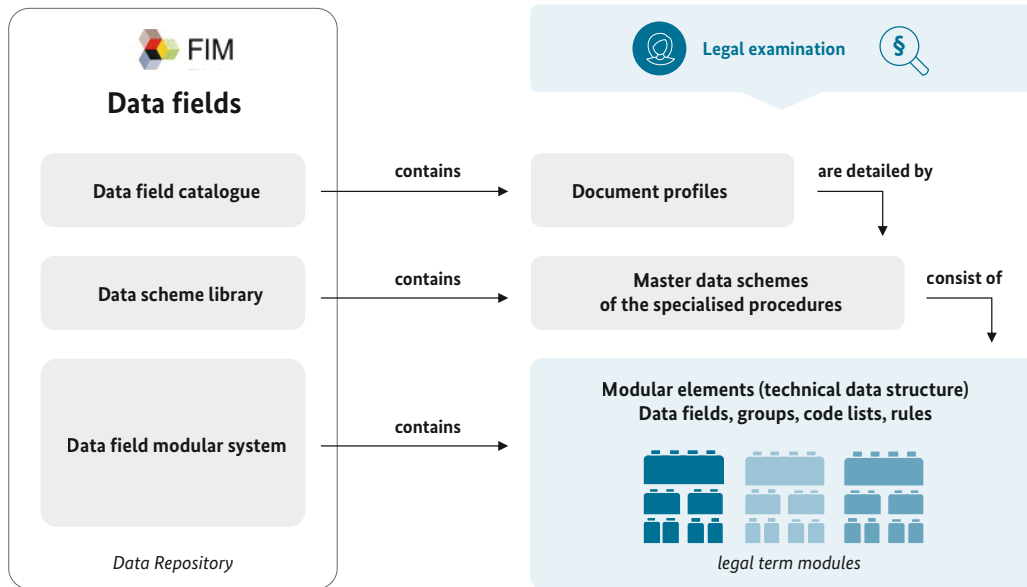
Fig. 11: FIM module "Data fields" in interaction with legal term modules

In order to facilitate the digital enforcement of future legislation, a binding digital compatibility assessment is required. The focus of this digital compatibility assessment must be on the reuse of well-defined legal term modules and the creation of the necessary data models. This is the only way to have a cross-authority and cross-procedural data structure. The data repository is the first starting point here. Additional legal terms must be seamlessly integrated into the existing modular system and assigned to suitable data sources from the outset. The FIM master data fields and master processes help legislators to visualise the relationships between legislation and technology by modelling administrative processes, data fields and data structures. E-legislation as a future working platform for drafting legislation should incorporate these component.s

Legislative process

Translation into technical data structure

E-legislation

- Tools Library
- Sustainability impact assessment (SIA)
- Procedural assistant
- Scheduling
- Adjustment and commenting service
- Compliance effort
- Legal impact assessment

Digital compatibility test

for legislative level

Data Dictionary

- **Definitions of meanings and terms** (legal term modules)
- **Responsibilities**
- **Data sources**

helps to identify data sources

Data source navigator

for enforcement level

Data Repository

- **Definitions of meanings and terms** (legal term modules)
- **Responsibilities**
- **Data sources**
- **technical data structure**

FIM

Definition of the technical data structure
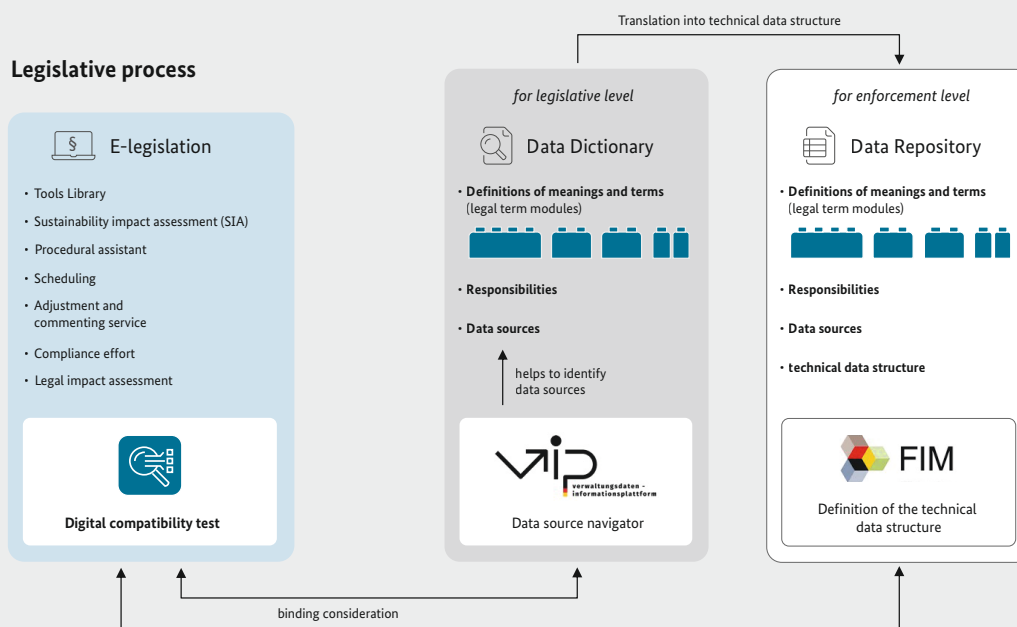
binding consideration

Fig. 12: Digital compatibility assessment with Data Dictionary and Data Repository

For an efficient, citizen and authority-friendly digital administrative enforcement, modern legislation must already be digitally compatible when the legislation are formulated. A digital compatibility assessment as part of the legal impact assessment as a mandatory sub-process of e-legislation promotes the harmonised definition of terms on the legislative side. Data harmonisation must precede digitisation, since the simultaneous creation of different data models in the federal states will not lead to a satisfactory result. FIM provides the conceptual and, in some cases, also practical starting point for transforming public service provision thoroughly. However, FIM has not yet been implemented across the board and falls short of being fully operational in practice.

For the content coordination as well as the operation and maintenance of a repository, a central point is required, such as the FIM federal editorial office. In the target image, the data dictionary and data repository are then combined to form a nationwide, successively filled (FIM) repository.

OUTLOOK AND RECOMMENDATIONS FOR ACTION

- Within the framework of the implementation of the OZG in specific subject areas, the persons responsible for the specialised procedures have the role of initiating changes in the legislation. They can therefore contribute significantly to the digital compatibility assessment of the body of legislation. Similar to the concept of income, it is important to define relevant legal terms across all procedures and to check for potential for harmonisation or modularisation.
- Once the individual subject areas have been harmonised and modularised, digital compatibility and/or order criteria can be derived from these across responsibilities and procedures and transferred to a data dictionary. Definitions of terms and meanings are bindingly defined here. The binding cross-departmental modularisation of legal terms is carried out by the responsible departments and specialist bodies in the legislative process. The data dictionary serves as an intermediate step in upgrading a uniformly applicable data repository, which contains all information relevant to enforcement. The existing FIM repository can be expanded for this purpose.
- The aim is to set up a nationwide data repository. Conceptual modularisation occurs during the legislative process. In addition, the necessary technical data structure is defined and entered into the data repository. Use of the FIM repository must be binding. A central body must be trained for this (e.g. Federal Editorial Office, Federal IT Cooperation (FITKO)). This takes over its operation and maintenance as well as quality assurance tasks and, if necessary, term consolidation vis-à-vis the departmental contacts.
- The data modelling is to be transferred from the enforcement level to the legislative level. This is served by a binding digital compatibility assessment for new legislation and the use of the toolbox from the data repository, FIM repository and other instruments such as VIP, register map and e-legislation.
- The digital compatibility assessment of legislation in the legislative process must be laid down in legislation. It can take place as a sub-process of the electronic legal impact assessment within the framework of e-legislation.

Conclusion

The digital compatibility of legislation is an essential step on the way to the digital transformation of the German administration. This is because administrative action is based on legal standards. Translating these into the world of IT requires a degree of clarity that the jargon of the legislators, the jurisprudence and the legal practitioner has not always offered.
This expert report shows that it is possible to harmonise legal terms, that it makes sense to do so and modularisation offers a viable route. In order to promote a binding and uniformly applicable modularisation of legal terms, all departments and administrative levels would have to cooperate more intensively with one another. The measures to accomplish the digital transformation of public services would have to be more closely linked. The terms, including the technical information, must already be defined in the legislative process – as legislation is first being drafted. In addition, a digital compatibility assessment for legislation must determine whether legal terms in the draft legislation have been designed in accordance with the agreed linguistic and technical standards.

Achieving this goal requires perseverance and a concerted effort. It would be ruinous not to use the potential of a smart administration, because a digital public service provision means that officials can automatically exchange essential data with one another. If public administrations learn how to handle data better, they could also evaluate it better and gain more far-reaching insights into how resources can be used more effectively, crises better managed, how the burdens on the society can be reduced and how the economy can be supported. Digital public service provision could make it possible for citizens to only have to transmit their data to public service providers only once. Thus, citizens' benefit claims can be processed and granted electronically. The vision that child benefit payments will be transferred into accounts immediately after the child is born, without even an application from the parents, or that child benefit will be automatically discontinued when the child has finished his or her studies, are no longer utopian dreams. The time gained by the public officials through automated standard processes could instead be used to advise citizens. Every great achievement progresses step by step. In the next step, the modularised concept of income in this expert report could be tested in a specific procedure and then applied to other areas of legislation. Now there is no more time to lose!