



Office of the Minister of State for Administrative Reform

الجمهورية اللبنانية
مكتب وزير الدولة لشؤون التنمية الإدارية
مركز مشاريع ودراسات القطاع العام

Republic of Lebanon
Office of the Minister of State for Administrative Reform
Center for Public Sector Projects and Studies
(C.P.S.P.S.)

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Considering and Proposing Solutions

Training Session No. 4

PMC

Programme
Monitoring
Consultancy



Section 4



Considering and Proposing Solutions



Remedies and Solutions : a wide range of choice



- **REDUCTION OF STEPS**
- **REDUCTION OF DELAYS**
- **REDUCTION OF PAPER PROCESSING**
- **REGULATORY RATIONLISATION AND HARMONISATION**
- **CODIFICATION**
- **DELEGATION OF AUTHORITY**
- **DEBUREAUCRATISATION AND REORGANISATION**
- **REGULATORY COST REDUCTION**
- **DEREGULATION**
- **CLARIFICATION AND TRANSPARENCY**
- **IMPROVED INFORMATION**

The analytical process conducted in the first phase of a simplification initiative is expected to lead to the identification of sustainable solutions presented in very clear policy statements to be consequently translated into regulations and innovative management formulas.

The variety of options available to the decision makers is fairly broad. There is no rigid scheme of pre-set solutions and remedies. According to the identified sources of complexity, adequate and coherent remedies are to be considered and carefully assessed. In a certain way this process of evaluation is a fairly similar to the so called Regulatory Impact Analysis (R.I.A.). Like in the R.I.A. the analysis is no longer ex post (like in simplification) but ex ante since it considers the possible future effects and impact that the proposed remedy can have on citizens and institutions in terms of costs, sustainability and ultimately simplification of the administrative processes. The process as just described, proves that Simplification and Better Regulation are two components of one single process which can not be kept separated. There is necessary synergy between simplification and Better Regulation like in a chain reaction where the element of mere deregulation is practically neutralised. The most perceivable benefit of such chain reaction is the prevention of any possible regulatory vacuum and continuity of the protection of public interests according to updated formulas and modern standards and rules in tune with needs of the community.

As already stated the range of possible solutions is pretty wide since the remedies are to be adapted to the contingent reality and the actual terms of the complexity. It is therefore difficult to imagine a fixed checklist of remedies. It is to be left to the administrator in charge of simplification to conceive remedies which keep into consideration the socio economic environment in which the procedure and its rules have been generated, the causes and reasons of complexity and for what reason the

procedures have been structured or have become complex and difficult to manage. Finding an answer to these questions helps to conceive remedies which in most of cases may appear unconventional but certainly inspired by common senses. Although flexibility, creativity, common sense and determination to move away from hard to sustain traditional formulas are the suggested main guiding parameters for finding ad hoc remedies to administrative complexity, it is possible to consider some categories of solutions as a broad and generic term of reference for solutions. As there are no preset remedies equally no remedy can be ruled out a priori. Careful evaluation of pros and cons for any solution is strongly advised. The choice of remedies can be facilitated if we consider what simplification is about. In this respect we must remember that Simplification should consubstantiate itself into the following solutions and conform to the following criteria and principles:



REDUCTION OF STEPS

simplification of administrative procedures, and of the any other procedure being closely connected or instrumental to them, is pursued for the purpose of reducing the number of the procedural steps and the number of administrative offices to be involved.



REDUCTION OF DELAYS

reduction of the delays for the conclusion of the procedures and standardisation of the delays expected for the of completion of procedures which have similar characteristics



REDUCTION OF PAPER PROCESSING

Reduction of the number of documents to be provided in a procedure and certificates by introducing alternative and substitutive forms of declaration and certification like the citizens' auto-certification for facts concerning their personal status, titles and acquired rights



REGULATORY RATIONALISATION AND HARMONISATION

uniform regulation of the procedures of the same kind carried out by different administrations or different offices of the same administration;



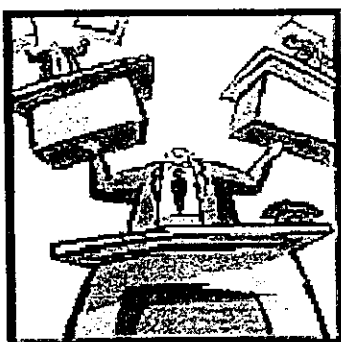
CODIFICATION

reduction in the number of administrative procedures and consolidation of those procedures that refer to the same activity, in consolidated acts which re-unite in one only prescribed text provisions coming from differently ranked normative sources for the purpose of responding to the need for simplification and cognition of norms;



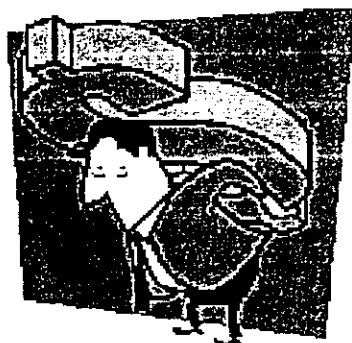
ENHANCED DELEGATION OF AUTHORITY

transfer to individual executives, belonging to the public administration, decisional functions which do not require, due to their specificity, collegial decision making procedures.



DEBUREAUCRATISATION And REORGANISATION

This may entail also redefinition and redistribution of competencies among offices, integration of alike functions, suppression of organs which become redundant and constitution of interdepartmental centres grouping various competencies which can be exercised through one single procedure



REGULATORY COSTS REDUCTION

abolition of procedures that entail, for both the administration and citizens, costs higher than the actual benefits, and their substitution, where possible, with alternative measures primarily axed on self-regulation by the concerned parties;



DEREGULATION

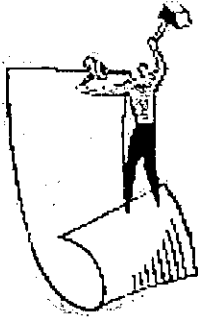
abolition of those procedures that represent a depart from general procedural norms when conditions justifying a different procedural approach cease to exist.

abolition of procedures which do not respond any longer to the purposes and objectives set by sector specific legislation or which conflict with the general principles contained in the national legal system;



CLARIFICATION AND TRANSPARENCY

- a) (Simplified language of normative texts and administrative instructions concerning content and conduct of formalities in order to make aware wide shares of citizens about their position in relationship with the public administration and make more effective and transparent the interaction between citizens and administration



IMPROVED INFORMATION

Strengthening of information media and procedures in order to facilitate the access, retrieval and circulation of information and data already held by the public administration.

Constant and updated information to citizens about changes and improvements concerning administrative procedures

Technical Solutions. How to deal with :

The Simplification of Rules

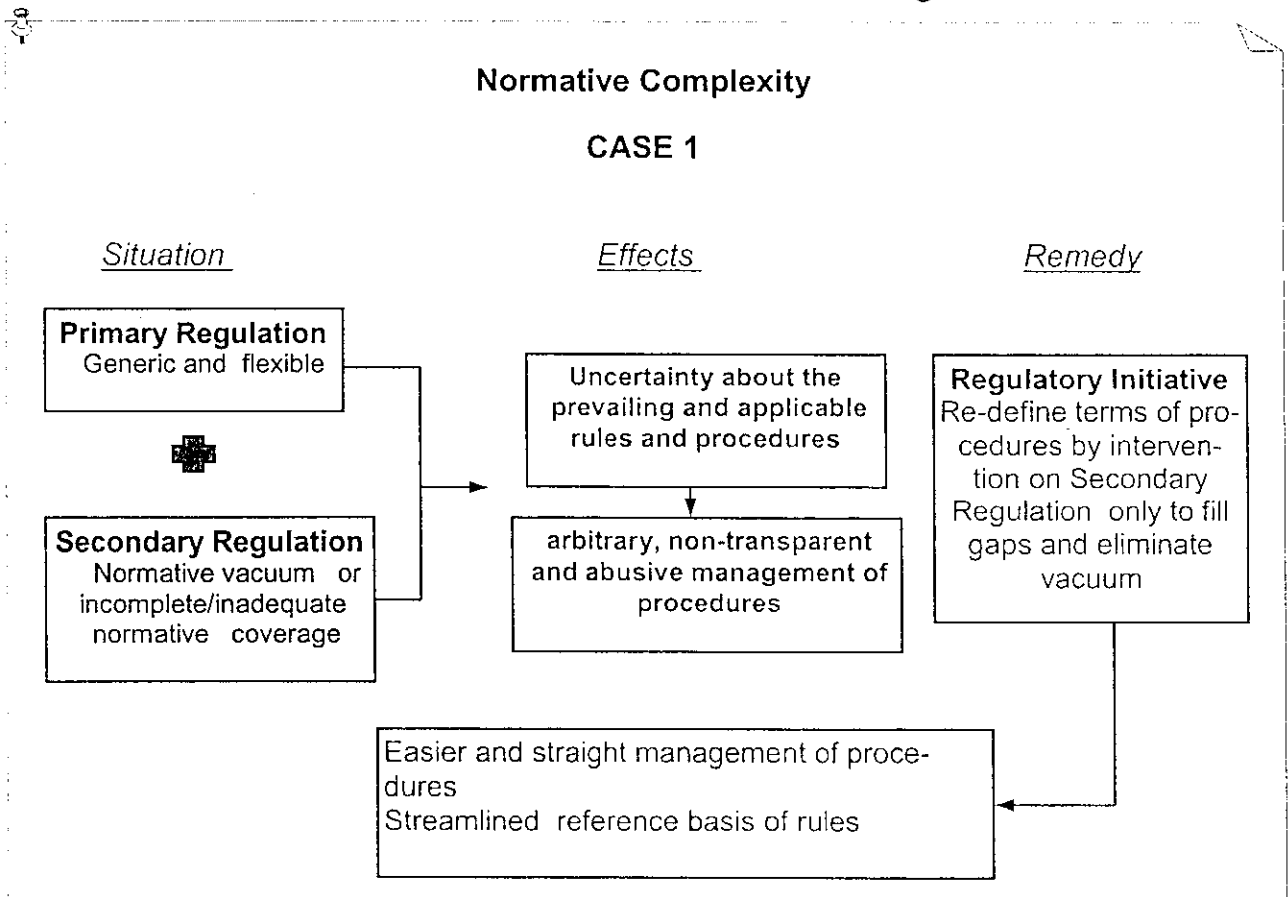
The Simplification of Administrative Acts

Remedies applicable to Procedures

Simplification of Rules

Simplification of procedures requires, necessarily, the amendment of those rules which establish and govern the functioning of the procedure.

There are four main situations where complexity of rules requires an ad hoc approach to simplification. These four situations can be summarised in the following schemes :

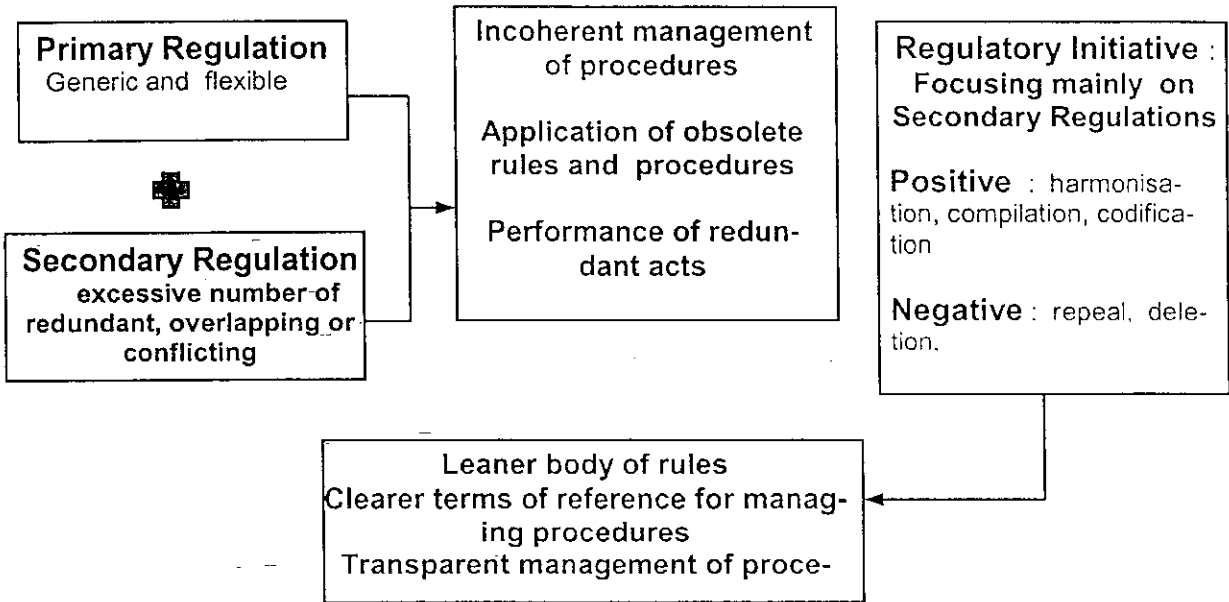


CASE 2

Situation

Effects

Remedy

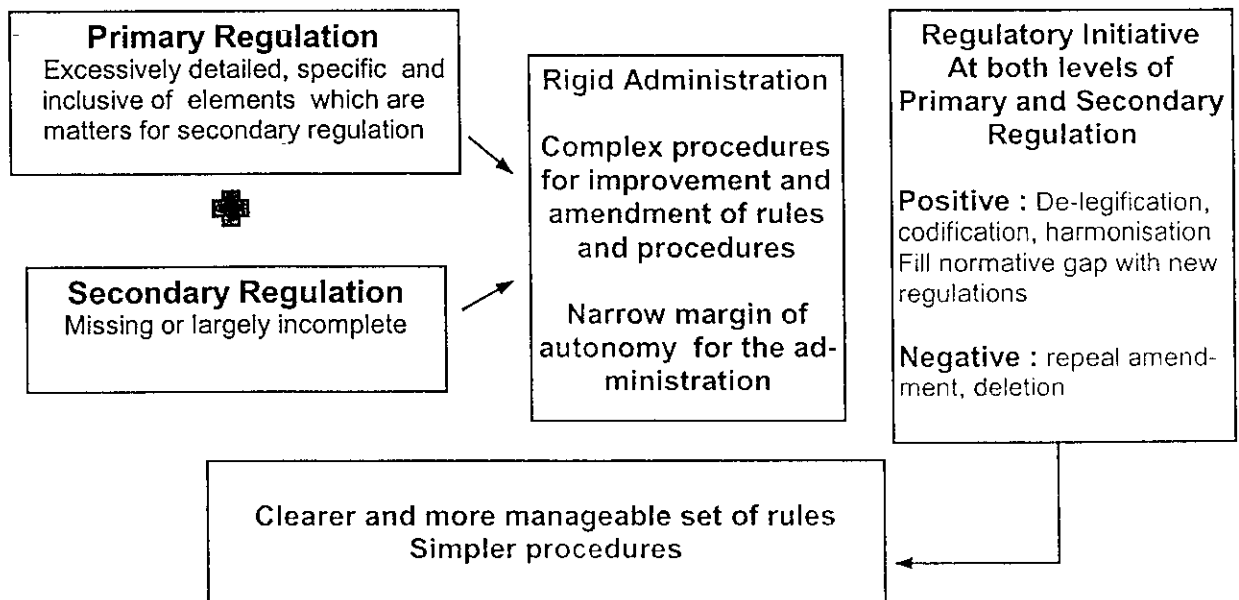


Case 3

Situation

Effects

Remedy



CASE 4

Situation

Effects

Remedy

Primary Regulation
Excessively detailed, specific and inclusive of elements which are matters for secondary regulation



Secondary Regulation
excessive number of redundant, overlapping or conflicting rules

Incoherent management of procedures
Application of obsolete rules and procedures
Performance of redundant acts
Rigid Administration
Complex process for improvement and amendment of rules and procedures
Narrow margin of autonomy for the administration

Regulatory Initiative
At both levels of Primary and Secondary Regulation

Positive : De-legification, codification, harmonisation
Fill normative gap with new regulations, re-regulation

Negative : repeal amendment, deletion

Slimmer, more focused, more dynamic and flexible system of rules and procedures

INTERVENTION ON RULES AND LEGALITY

The amendment of rules may create serious problems till the point of becoming a relevant constitutional issue. Usually Simplification is a task under the jurisdiction of the Government (Executive) , responsible, among other things, to carry out all activities ensuring the proper functioning and management of its own structures. The process of administrative reform and consequently of normative and procedural simplification as parts of this process, are the responsibility of the Executive. The main technical problem which arises in this case is to what extent the Executive can intervene on normative texts , therefore acting "ultra vires" (beyond its own constitutionally established capacity to intervene in negative or positive law making.). This problems is exclusively circumscribed to the amendments of primary regulations (laws, decree laws) for the amendment of which the Parliament (The Legislative) is the sole constitutionally competent authority. In Italy for example the effectiveness of the simplification process, in a certain period, was under risk due to the strict application of the division of powers between legislative and executive. Some countries have a long and consolidated tradition of regulating matters by the most authoritative and difficult to amend instruments such as primary regulations. Such rigidity, as a matter of fact, precludes any efforts to adapt rules to a changing social economic and political environment. This excess of conservatism, in the long run, turns out to be detrimental to any efforts toward reform. In the Italian case, if no legislative formulas in line with the constitution would have been found, the risks were either to generate constitutionally illegitimate simplified procedures (due to the illegitimate amendment of primary regulations governing them by a non competent power of the State) or to make more difficult and restricted in terms of opportunities, and consequently less effective simplification. The Italian legislator has found some formulas which have avoided such risks and consequently paved the road to large programmes of simplification with rapidly tangible effects. The technical solutions to the problem in this case are : de-legification, codification and legislative delegation.

LEGISLATIVE DELEGATION

This instrument is not exactly available to the agents of simplification for the conduct of their activities but is rather instrumental to the extension of powers to the Executive to carry out active legislative functions upon mandate received from the Legislative for specific matters agreed by the Parliament. In concrete terms, the submission from the Executive to Parliament, of a programme of regulatory reform inclusive of simplification upon endorsement from Parliament. On the basis of such delegation the Executive can carry out, within the terms established in the act (in this case the approved programme) all actions needed to carry out effective reform and simplification. This mandate includes also terms of reference on what simplification, for example, is supposed to consist of (i.e. de-legification , auto certification, decentralisation etc...)

DE-LEGIFICATION

Regulating matters by laws is in many countries a well consolidated practice. The reasons of such practice are to be found in the need to provide rules with a solid basis of consensus which translates into more authoritative and powerful rules. Such rules, once enacted, become difficult to amend unless a consensus to change, broader than the one needed to formulate them, is available. This makes the overall legal and administrative change rigid and non responsive to change. The Italian legislator has surrounded this obstacle by delegating to the Executive, the power to amend, repeal and abrogate primary regulations which are source of complexity .

Such delegation of legislative functions is different from the one examined in the paragraph here above. It consists in attributing to the executive the power to lower the rank of an entire primary regulation to the secondary level so that the authority in charge of simplification can operate more freely amendments or abrogation of rules which have caused complexity. This power is subject to specific delegation upon approval from the Legislative of an annually proposed programme from the Executive. By approving the programme of regulatory

reform inclusive of simplification the Parliament extends the power of de-legification for only the areas of intervention indicated in the programme. This solution which is tightly monitored by the parliament, in Italy, has allowed the successful simplification of important procedures for large sectors in the social and economic fields.

CONSOLIDATION

Another way of dealing with regulations, less radical than de-legification is Consolidation means bringing together multiple texts that regulate a particular area into one, with or without minor changes to the substance. Major changes to substance are carried out when the regulation is simplified.

In this context, consolidation is used in its generic sense and includes both codification and recasting. The term “legally effective consolidation” means production of a consolidated text that has legal effect, through either codification or recasting. The rapid growth in the production of regulations has made it particularly necessary to make an effort to bring all these texts together in an ordered fashion based on various regulatory subject headings which together make up “the law”.

The strengthening of democratic principles demands the widest and easiest possible access for citizens to the rule of law. This demand particularly concerns those involved in the practice of the law, whether they are public administrations, the courts or the legal advisors of persons brought before the courts.

Wherever it is undertaken, the work of legally effective consolidation has two main objectives:

1. **To make the body of laws and regulations more coherent** and, therefore, to facilitate reforms and simplification. One of the main aims – with a view to ensuring clarity and therefore legal security – is to identify and correct illogical elements, inconsistencies and gaps in the existing regulations

and also to harmonise and, if necessary, modernise the legal force by subject, ensuring coherence and providing a system of cross-references between language used. Another aim is to eliminate obsolete provisions from the law currently in force.

2. **To make the law easier to find out about and understand for its users**, thereby increasing compliance with laws and regulations. This involves presenting the law currently in subjects (and therefore between codes or other legal acts) and – through constant updating – offering an easy means of consulting the law currently in force.

CODIFICATION

codification consists in simple normative streamlining and harmonisation not requiring active legislative initiative . The term “official codification” is used to describe the process of repealing a set of acts in one area and replacing them with a single act containing no **substantive** change to those acts. It thus produces a text with legal effect.

In some EU countries (for example France), the meaning of codification is closer to the European term *recasting* (see below) – that is the process not only brings together multiple texts into one, but also makes changes to remove out-of-date or nonsensical provisions or correct gaps. It also has the sense of “*incorporating into a code*” in those countries that have such a legal structure. In this report codification is used in the European sense unless specified otherwise by the context.

RECASTING (REFONTE)

This term is used to describe a combination of codification and substantive changes. It is not however wholesale repeal or, generally, major review of regulation.

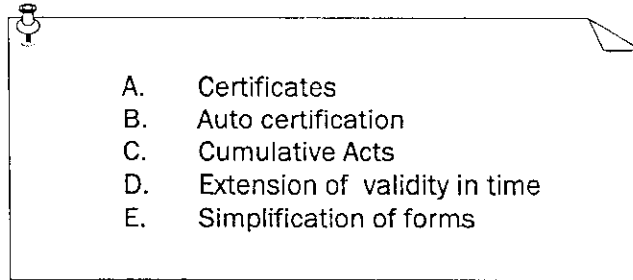
CLARIFICATION OF NORMATIVE TEXTS

One of the main causes on complexity is often generated by the difficulty to provide fast accurate interpretation about the applicability of rules to certain procedures or about the guidelines for its management

Clarification of normative texts and guidelines is one of the most frequently used remedies for simplification. Clear texts syntactically well structured, linguistically comprehensible texts, simply described processes understandable for the low educated user are the first step in simplification. In many countries the simplification exercise has started with the definition of glossaries where technical words are substituted with more commonly used synonyms. Graphic presentations of forms and guidelines are made to direct the attention of readers on the relevant portions of text. The elimination of lexical ambiguities, the introduction of straight and positive statements are also aspects of the simplification of language. Esoteric language hinders transparency effectiveness and access to information. This privilege that certain classes of administrators and politicians have protected for many centuries collides with the principles of simplification.

- Simplification can therefore be simpler than what one can imagine especially when the recourse to clear understandable language is the best solution.

The Simplification of Administrative Acts

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- A. Certificates
 - B. Auto certification
 - C. Cumulative Acts
 - D. Extension of validity in time
 - E. Simplification of forms

A. CERTIFICATES

The Public Administration frequently imposes on citizens the obligation of providing documents and statements certified by a public officer or public notary. This practice often represents an un-necessary burden on the citizen both in financial terms and consumption of money. In many cases, as a matter of fact the certification is just a redundant step which does not make necessarily truer the content of the document or of the statement. The notarisation of unilateral declarations concerning expressions of will like in the case of confirming the decision to hire a person for a private job, is redundant, costly and time consuming.

Under particular circumstances the notarisation of copies of public documents can also be considered as a redundant act. This is particularly true when such documents are easily traceable from the original issuer of the originals and consequently a comparison with the original can be performed by the concerned office of the public-administration. Forgery, false declarations in public acts, misrepresentation are crimes which can be performed also through a perfectly notarised act produced by a dishonest certifying authority. The Public Administration should focus more on the control of the quality and truthfulness of declarations after receiving them rather than relying on preventive measures of protection such as the "notarisation" especially in a time when the access to electronic means of communication can facilitate any type of manipulation. The request for notarised copies of official documents should be diminishing proportionately to the level of computerisation of official records and archives in the Public Administration. Cross

checking declarations and acts with the available records would become a primary activity of the public administration rather vexing the citizen with the request to produce and deliver additional copies and amounts of paper.

B. AUTO-CERTIFICATION

This remedy is an additional solution to the inflation of notarised certificates and declarations.

There are facts which are relatively durable in time such as the civil status, the professional and educational qualifications of citizens and any other information relevant to the public administration pertaining to the person.

For this type of information the Public Administration is often the holder of all relevant data and the issuer of particular types of documents which contain all personal data (i.e. identity cards or passports). The frequent requests of the public Administration to the citizen are to provide this type of information through notarised and publicly certified acts are therefore redundant and irrational. In this way the citizen becomes a medium for the circulation of data already known by the Public Administration and safely in its hands. Moreover such information is often already certified in a public cumulative document such as the identity card and is scrupulously kept updated and on record by the Public administration in one of its specialised branches.

Simplification, in this respect, can be obtained by introducing the Auto-Certification where the citizen is personally responsible to declare facts and data concerning his/her personal status under his/her (administrative and penal) personal responsibility. To this effect the citizens can fill specially prepared forms for certificates that he/she shall subscribe in presence of a public officer upon presentation of a personal piece of identification. It will be the responsibility of the public administration to verify subsequently the truthfulness and accuracy of the information provided through auto-certification.

C. CUMULATIVE CERTIFICATES

In particular cases, some administrations who are less pragmatic and efficient than others, still require the presentation of official certificates for the completion of specific procedures. The delivery of Passports, or the licensing of a commercial or professional activity, for example, in most countries are conditional upon presentation of various documents certifying the status of the applicant. In such rigid systems who have not yet considered the possibility of introducing auto-certification it is possible to reduce the burden of producing several certificates, often to be collected in different offices, by introducing "cumulative certificates" which contain a number of information and data in one single document. The advantage of this formula is to reduce the number of papers to be collected and processed, to reduce the navigation of citizens through various offices of the Public Administration, the reduction of costly visits to different offices and waiting for the production of certificates, the payment of taxes for each paper obtained. Concerning this last point, it is important to consider that for the Public Administration the management /administrative costs of any tax paid on a document, are often higher than the final revenue obtained from such tax. It is therefore much more rational to concentrate data in one single certificate and consider whether it is profitable for the Public Administration to levy any payment on the document or on the processing of the formality as a whole.

D. EXTENSION OF VALIDITY IN TIME

An additional element which contributes to making procedures cumbersome and complex is the expiring of validity of documents along the procedure which often lasts beyond such time limits. The acquisition process for the citizen for the same documents provokes interruptions detrimental to the timely completion and accurate execution of the procedure.

Too often administrations set tight limits for the validity in time of documents mainly for the purpose of levying additional taxes payable for any copy of a given document. This additional burden does not justify the occurrence of interruptions and repetitious process of acquisition of papers from the administration to

the citizen to the administration once again. It is a good measure of simplification to set longer terms of validity for certain documents and for certain categories even to eliminate such limits. The elimination of such limits can be applied to all the documents certifying statuses and facts more unlikely to undergo changes over relatively short periods of time.

E. SIMPLIFICATION OF FORMS

Often the progression of an administrative procedure is negatively affected, at the very inception, by unclear forms difficult to understand and decipher for the average educated citizen who comes across them.

Moreover, the instructions which accompany forms and describe procedures in general are often written in a language too technical and obscure for a non specialised audience. Obscure instructions, non user friendly forms and syntactically complex and grammatically inaccurate regulations are frequent source of misunderstanding for both administrators and citizens. Misunderstanding in this case may lead to arbitrary or confused interpretation of rules and procedures for the administrators.

A viable remedy which can ensure smooth starting and management of a procedure can be the simplification of "forms" (applications, declarations, petitions etc..). Simplification in this case may apply to the content, format, visual layout and language of the document or to the content of the form. Simplification can be "quantitative" meaning reduction of the number of forms by elimination of the redundant or irrelevant ones or integration of related types of information into one single document (i.e. cumulative certificates).

Remedies Applicable to Procedures

- A. Internal retrieval and circulation of acts
- B. Electronic management of Administrative Acts
- C. Silent Consent

A. Internal retrieval and circulation of acts

It is the consolidated habit of Public Administrations to request from citizens and consequently process relevant amount of documents. This results into a burden on citizens who are bound to waste valuable time in searching for the requested documents. All this searching, retrieving, handling and submitting is already a form of complexity in itself and an additional element of complexity within the broader perspective of the procedure.

In many cases it is rather irrational the request of the administration to obtain from a private citizen information which the administration itself already holds within its own structures and services. It is even more absurd to request a private citizen to become the messenger of documents and information from one office to another of the same administration. This is even more absurd when we think about the colossal stacks of papers containing the requested information that the public administration has been able to stockpile for generations. According to common sense if no one can efficiently use and circulate within the administration such records their stockpiling is useless. Why, then, the administration requires an external individual to waste time to obtain such documents upon retrieval when already it has them in its own hands? The worse is that the citizen for this operation of retrieval often is required to pay a tax on the obtained document while the civil servant responsible for the procedure is paid not retrieve the requested document. Why the administration does not spare the citizen from this unnecessary aggravation by establishing functioning systems able to ensure the internal retrieval and circulation of information

and data ? It is therefore a good remedy the introduction of principles, practice and rules which establish the internal retrieval of documents from office to office without the time consuming and costly contribution of the citizen client. This is applicable for all those acts and documents which are stored in copy within the organisation of a public administration.

B. Electronic Management of Administrative Acts

The introduction of new technologies in managing the public administration is essential for achieving simplification. Many functions and procedures can be easily conducted with the help of ITC tools. The recourse to information technology can facilitate client citizens in the preparation and follow up of formalities, can reduce time consuming navigation through the office corridors, expedite the preparation of any procedure and facilitate the work of review and decision making of the administration. The following actions can be carried out in a simple and expedite way with the help of ICT :

- Submission of papers to the public administration
- Filling of forms and applications
- Retrieval of certificates and forms
- Payments to the public administration
- Follow up on administrative procedures
- Management of archives and storage of public records
- Circulation of documents within the public administration

It is essential, however, that new rules be established by the public administration on the electronic management of administrative acts in order to prevent the risk of abuses. Rules have to be established for the recognition of the legal value of copies of documents or declarations transmitted by electronic means. As well, rules are to be introduced for the use and management of electronic signatures etc...

C. Silent Consent

The processing of formalities often goes beyond the time limits set by laws and secondary regulations. The accumulation of operational bottlenecks resulting from all the causes of complexity examined earlier in this manual generate poor performance of the public administration mainly perceivable as lengthy procedures.

In the recent years different administrations around the world have attempted to set up mechanisms aimed at protecting the interest of client citizens against any penalisation deriving from lengthy and inconclusive procedures. In an effort to contain the financial losses that such long procedures may entail to both citizens and administration, the remedy of silent consent has been devised. By "Silent Consent" it is meant a sort of statute of limitations applicable to the procedure to the benefit of the client citizen. Practically if a procedure is not completed within the terms set by law, the expected effects of the procedure take place independently from any decision of the administration. In practice if the terms for a procedure to obtain a licence are set to be 4 weeks and at the date of expiry of the 4th week no reaction has taken place from the administration, the licence is considered as granted. This is certainly a very radical measure which helps to induce the administration to cut "red tape" and contain the processing time within reasonable limits as well as reducing the accumulation of backlog of applications in the administration.

Although this may seem a useful remedy it conceals some risks especially for those administrations that do not count on a well organised apparatus and that are consequently bound to miss their deadlines with the client citizens. Some forms of protection are therefore necessary for safeguarding the capacity of the public administration to protect the public interest to fair and coherent administration. It is necessary to mitigate the content of "silent consent" clauses with the reserve attributed to the public administration to control, *pos facto*, whether all conditions established for obtaining a licence, for example are present, if the licence was obtained by means of silent consent. In case of non compliance with the requirements set by law, the licensee may be given a time to comply

with all requirements or be revoked the licence till full compliance. In this way the role and authority of the administration along with its function of regulating certain activities is not swamped by a situation of managerial weakness and inefficiency.

The Simplification Process



In everybody's interest

SIMPLIFICATION

By the End of this Session you will have become familiar with the following :

SIMPLIFICATION

Remedies and Solutions


Remedies



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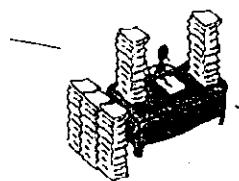
Remedies



REDUCTION OF DELAYS

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Remedies



REDUCTION OF PAPER PROCESSING

Reduction of the number of documents to be provided in a procedure and certificates by introducing alternative and substitutive forms of declaration and certification like the citizens' auto-certification for facts concerning their personal status, titles and acquired rights

Remedies



REGULATORY RATIONALISATION AND HARMONISATION

uniform regulation of the procedures of the same kind carried out by different administrations or different offices of the same administration;

Remedies



CODIFICATION

reduction in the number of administrative procedures and consolidation of those procedures that refer to the same activity, in consolidated acts which re-unite in one only prescribed text provisions coming from differently ranked normative sources for the purpose of responding to the need for simplification and cognition of norms;

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ENHANCED DELEGATION OF AUTHORITY

transfer to individual executives, belonging to the public administration, decisional functions which do not require, due to their specificity, collegial decision making procedures.



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This may entail also redefinition and redistribution of competencies among offices, integration of alike functions, suppression of organs which become redundant and constitution of interdepartmental centres grouping various competencies which can be exercised through one single procedure



REGULATORY COSTS REDUCTION

abolition of procedures that entail, for both the administration and citizens, costs higher than the actual benefits, and their substitution, where possible, with alternative measures primarily axed on self-regulation by the concerned parties;

Remedies



DEREGULATION

abolition of those procedures that represent a depart from general procedural norms when conditions justifying a different procedural approach cease to exist.

abolition of procedures which do not respond any longer to the purposes and objectives set by sector specific legislation or which conflict with the general principles contained in the national legal system;

Remedies



CLARIFICATION AND TRANSPARENCY

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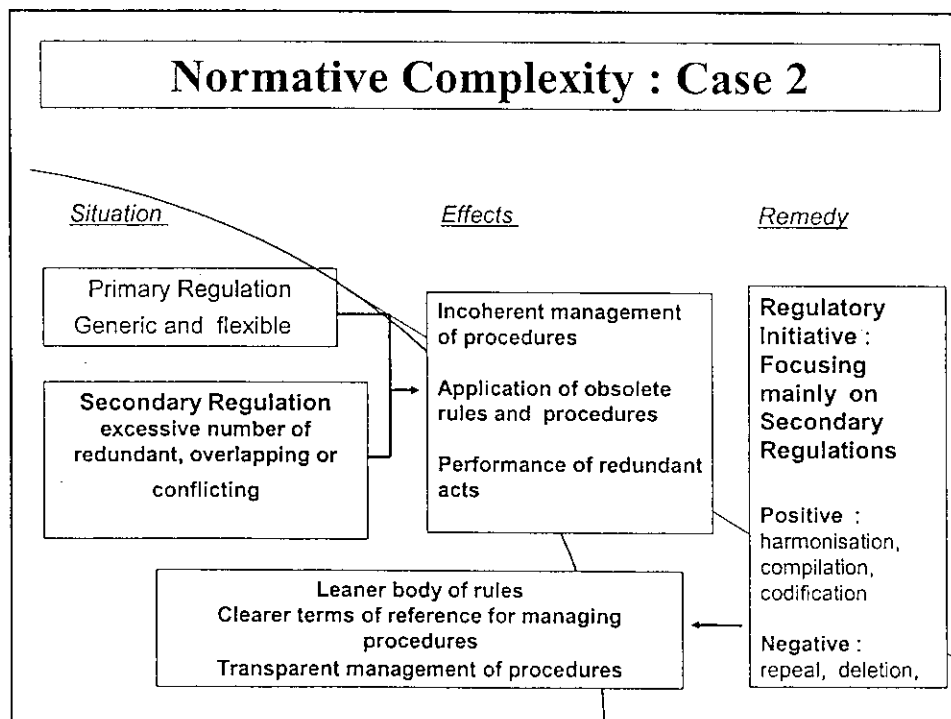
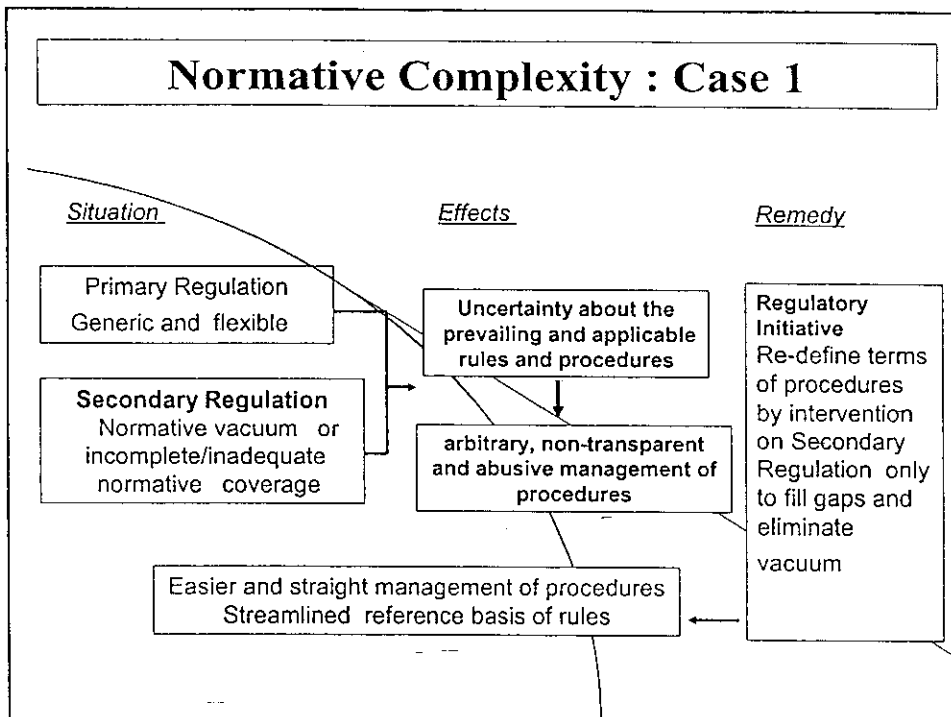
Remedies

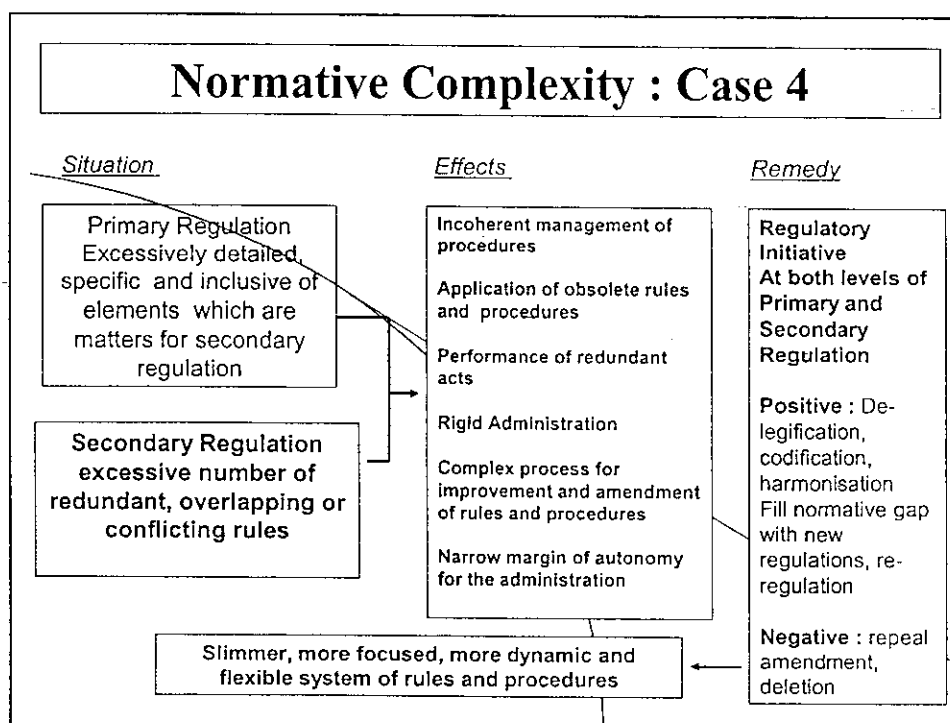
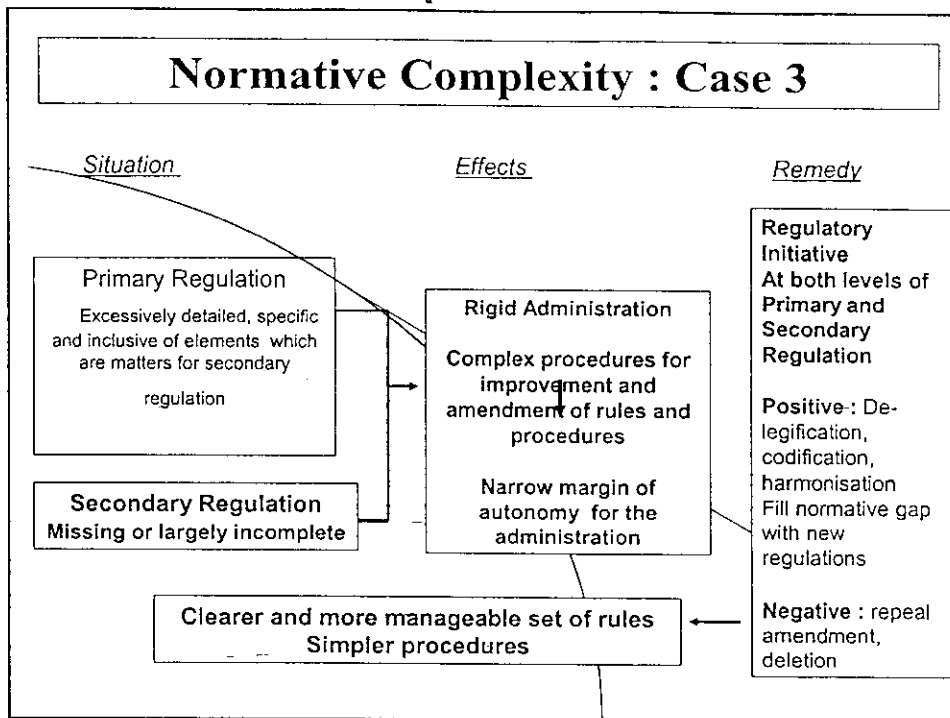


IMPROVED INFORMATION

Strengthening of information media and procedures in order to facilitate the access, retrieval and circulation of information and data already held by the public administration.

Constant and updated information to citizens about changes and improvements concerning administrative procedures.





Technical Solutions

REMEDIES : Simplification of Rules

Legislative Delegation

De-legification

Consolidation

Codification

Recasting

Clarification of Normative Texts

Simplification of Administrative Acts

Certificates

Auto Certification

Cumulative Acts

Extension of Validity in time

Simplification of Forms

Simplification of Procedures

Internal access and circulation of acts

Electronic management of Administrative Acts

Silent Consent

حلول وطرق لمعالجة التعقيد الإداري

- تخفيف مراحل المعاملة
- تخفيض المهل
- تخفيض عدد المستندات المطلوبة
- الترشيح والتنسيق التنظيمي
- جمع القوانين وتنظيمها
- تفويض السلطات
- إزالة البيروقراطية وإعادة التنظيم
- تخفيض التكاليف التنظيمية
- إزالة الضوابط التنظيمية
- الوضوح والشفافية
- تحسين المعلوماتية

من المتوقع ان تؤدي العملية التحليلية في المرحلة الأولى من التبسيط الى تحديد حلول طويلة الأمد. تتوفر خيارات عديدة و متنوعة للموظفين الإداريين الذين يعملون على التبسيط. غير انه من الصعب وضع لائحة محددة بالحلول, إذ ان الحلول و العلاجات توضع وفقاً للمحيط الإجتماعي و الإقتصادي الذي نشأت فيه المعاملة و الإجراءات بالإضافة الى اسباب التعقيد. بالرغم من هذه الصعوبة, يجب ان نتذكر ان على عملية التبسيط معالجة المبادئ التالية:

- تخفيف مراحل المعاملة:
تبسيط الإجراءات الإدارية و أي إجراءات تتعلق بها بشكل مباشر بغية التخفيف من مراحل سير المعاملة و عدد الإدارات المعنية.
- تخفيض المهل:

خفض المهل لإنهاء سير المعاملة, و تعيير الهل المتوقعة لإنهاء سير المعاملات المتشابهة.

• تخفيض عدد المستندات المطلوبة:

تخفيض عدد المستندات و الشهادات و الإفادات المطلوبة في المعاملات من خلال إدخال أشكال بديلة من التصريحات و الشهادات كتصديق المواطن الذاتي في الأمور المتعلقة بوضعه الشخصي و حقوقه المكتسبة.

• الترشيد والتنسيق التنظيمي:

التنسيق بين الإجراءات المتشابهة التي تقوم بها إدارات مختلفة او فروع مختلفة من الإدارة نفسها.

• جمع القوانين و تنظيمها:

التخفيف في عدد الإجراءات الإدارية ودمج الإجراءات المتعلقة بالمعاملة نفسها.

• تفويض السلطات:

تفويض سلطة إتخاذ القرارات إلى موظفين فرديين في الإدارة العامة.

• إزالة البيروقراطية وإعادة التنظيم:

قد يشتمل ذلك على إعادة تحديد و توزيع الكفاءات بين الإدارات، دمج الوظائف المتشابهة، إزالة الأعضاء الفائضة ، وتكوين مراكز بين الدوائر تجمع كفاءات مختلفة يمكن الإستعانة بها في معاملة واحدة.

- تخفيف التكاليف التنظيمية:

حذف المعاملات التي تتسبب بتكاليف اعلى من فائدتها للمواطن والإدارة وإستبدالها بإجراءات بديلة تركز بالدرجة الأولى على التنظيم الذاتي.

- إزالة الضوابط:

إزالة الإجراءات التي تبتعد كل البعد عن المعايير الإجرائية العامة و إزالة الإجراءات التي لم تعد تتوافق مع أهداف التشريعات الخاصة بقطاع معين أو التي باتت تتنافس مع المبادئ العامة في النظام التشريعي.

- الوضوح و الشفافية:

تبسيط لغة النصوص المعيارية و التعليمات الإدارية المتعلقة بسير المعاملة لزيادة من فعالية و شفافية التفاعل بين المواطن و الإدارة العامة.

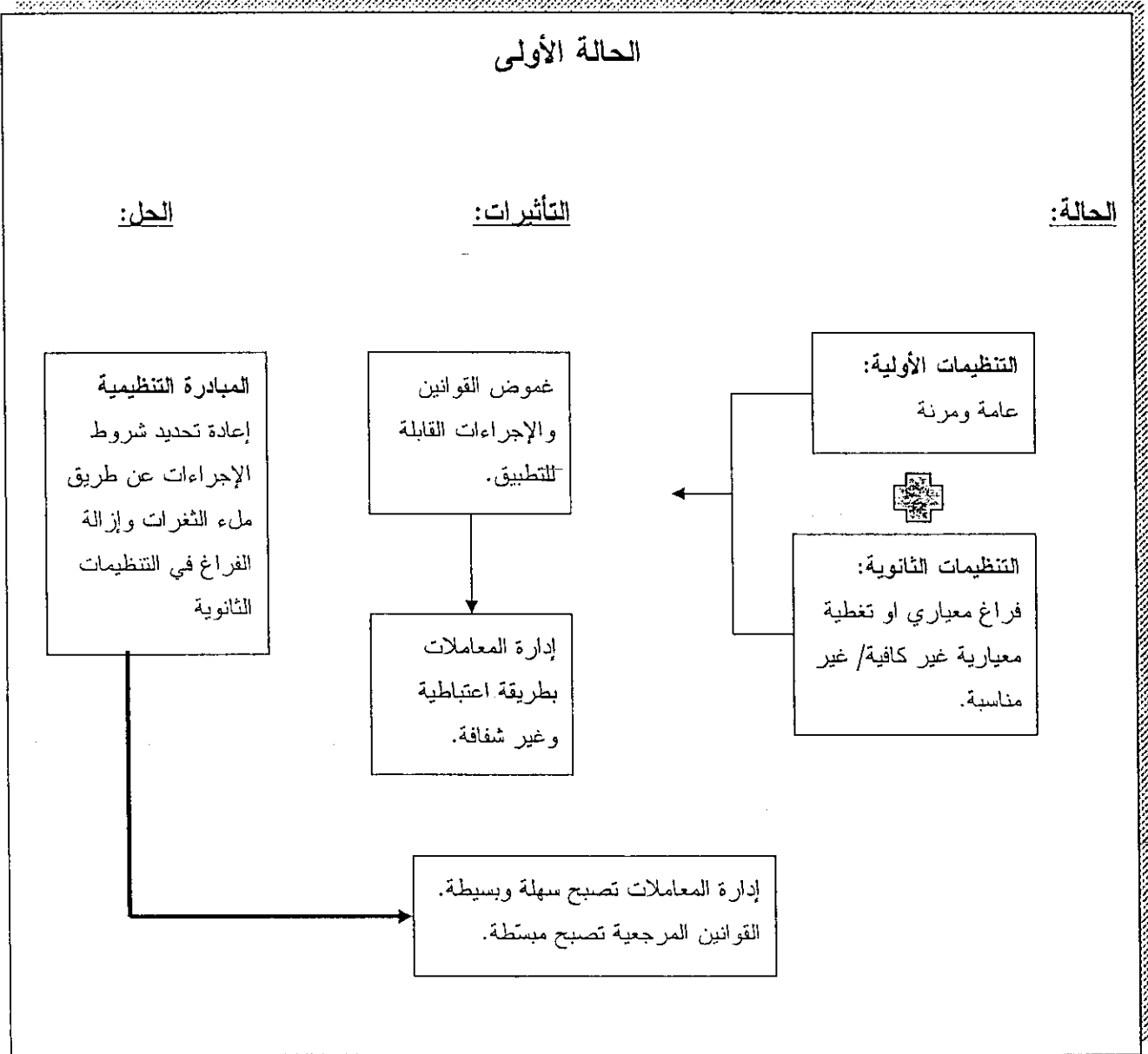
- تحسين المعلوماتية:

تعزير الإجراءات المتعلقة بالمعلوماتية لتسهيل الحصول على
المعلومات الموجودة لدى الإدارة العامة.

حلول تقنية متعلقة بتبسيط القوانين

يتطلب تبسيط الإجراءات تعديل القوانين التي تتحكم بسير المعاملة, هناك أربع حالات رئيسية يتطلب فيها تعقيد القوانين التبسيط بشكل خاص:

التعقيد المعياري



الحالة الثانية

الحل:

التركيز على
التنظيمات الثانوية،
الأمر الذي يساهم في
تنسيقها وتنظيمها.

التأثيرات:

إدارة غير واضحة
للمعاملات.
تطبيق معاملات وقوانين
قديمة وفانضة.

الحالة:

التنظيمات الأولية:
عامة ومرنة



التنظيمات الثانوية:
فائض في
التنظيمات المتشابهة
او المتضاربة.

شفافية في سير المعاملات
شروط مرجعية واضحة في ادارة المعاملات.

الحالة الثالثة

الحل:

يطبق على مستوى
التنظيمات الأولية
والثانوية، الأمر الذي
يساهم في ملء
الثغرات المعيارية
بتنظيمات جديدة.

التأثيرات:

- إدارة صارمة
- اجراءات معقدة
لتحسين وتعديل
القوانين
والإجراءات.
- هامش استقلالية
ضيق للإدارة.

الحالة:

التنظيمات الأولية:
مفصلة جدا، محددة،
وتتضمن عناصر تتعلق
بالتنظيمات الثانوية.

التنظيمات الثانوية:
ناقصة او غير كاملة

قوانين أكثر وضوحاً وقابلة للإدارة
إجراءات مبسطة

الحالة الرابعة

الحالة:

التنظيمات الأولية:
مفصلة جدا، محددة،
وتتضمن عناصر تتعلق
بالتنظيمات الثانوية.



التنظيمات الثانوية:
عدد كبير من القوانين
الفائضة والمتشابكة او
المتضاربة.

التأثيرات:

- إدارة غير واضحة
للمعاملات.
- تطبيق قوانين وإجراءات
قديمة.
- إدارة صارمة.
- عملية معقدة لتحسين
وتعديل القوانين
والإجراءات.
- هامش استقلالية ضيق
للإدارة.

الحل:

يطبق على مستوى
التنظيمات الأولية
والثانوية، الأمر
الذي يساهم في
ملء الثغرات
المعيارية بتنظيمات
جديدة.

نظام قوانين وإجراءات مبسطة
ومرنة.

قد يتسبب تعديل القوانين بمشاكل خطيرة قد تؤدي الى مسألة دستورية هامة. ويدخل عادة التبسيط ضمن نطاق صلاحيات السلطة التنفيذية (الحكومة) المسؤولة عن كافة النشاطات التي تضمن الإدارة الصحيحة لهيكلاتها. ان السلطة التنفيذية مسؤولة عن عملية التنمية الإدارية والتبسيط المعياري والإجرائي اللذين يشكلان جزءا من هذه التنمية. المشكلة التقنية الأبرز التي تنشأ في هذه الحالة هي مدى تدخل السلطة التنفيذية في النصوص المعيارية، اذ انها تتخطى بذلك حقها المحدد في الدستور المتعلق بالتدخل في الأمور التشريعية. تتعلق هذه المشكلة بشكل حصري بتعديلات التنظيمات الأولية (القوانين، المراسيم التشريعية) التي لا يحق الا لمجلس النواب (السلطة التشريعية) بتعديلها.

في ايطاليا مثلا تعرضت فعالية عملية التبسيط للخطر في فترة معينة بسبب الفصل الصارم بين السلطتين التشريعية والتنفيذية. في الواقع، هكذا فصل يعيق كافة محاولات تكييف القوانين مع محيط اجتماعي وسياسي واقتصادي متغير ويقضي على محاولات التبسيط. في ايطاليا مثلا، لو لم يتم ايجاد صيغ تشريعية تتماشى مع الدستور، لكان هناك خطر وضع اجراءات مبسطة مخالفة للدستور (بسبب التعديل غير الشرعي للإجراءات الأولية). غير ان المشرع الإيطالي وجد صيغ لتجنب هذا الخطر وأفسح المجال أمام برامج تبسيط أكبر ذات تأثيرات ملموسة.

ان الحلول التقنية للمشكلة في هذه الحالة هي:

تفويض السلطة التشريعية:

منح السلطة التنفيذية من قبل السلطة التشريعية السلطة لتطبيق وظائف تشريعية محددة يوافق عليها البرلمان. يشمل هذا التفويض

ايضا مراجعا لما يجب ان يكون عليه التبسيط، كالشهادة الذاتية واللا مركزية...

الدمج:

يقتضي الدمج جمع نصوص متعددة تنظم معاملة معينة ودمجها في نص واحد دون تغيير جوهرها الذي لا يتغير الا عند تبسيط المعاملة.

يهدف الدمج الى:

1. زيادة مجموعة القوانين والتنظيمات تماسكا وبالتالي تسهيل التبسيط، بالإضافة الى تحديد وتصحيح العناصر غير المنطقية والثغرات في التنظيمات القائمة والتحديث عبر ازالة الفقرات القديمة من القوانين السارية الاجراء.
2. تسهيل فهم القوانين وبالتالي زيادة التقيد بالقوانين والتنظيمات. يشتمل ذلك تقسيم القوانين حسب المواد التي تتناولها وتقديم طريقة سهلة لمراجعتها عبر تحديثها المستمر.

جمع وتنظيم القوانين:

يشتمل ذلك على التبسيط المعياري والتنسيق، ولا يتطلب أي مبادرة تشريعية. في بعض دول الإتحاد الأوروبي (فرنسا مثلا) يشتمل جمع وتنظيم القوانين على دمج نصوص متعددة بالإضافة الى القيام بتعديلات لإزالة الفقرات والثغرات القديمة او غير الصحيحة.

توضيح النصوص المعيارية:

يكمن احد اهم اسباب التعقيد في صعوبة تأمين تفسيرات سريعة ودقيقة متعلقة بتطبيق بعض القوانين في اجراءات معينة او الإرشادات لإدارتها.

ان توضيح النصوص المعيارية هو اكثر الطول اعتمادا في عملية التبسيط. لذا تشكل النصوص الواضحة ذات التراكيب الصحيحة واللغة البسيطة التي يمكن ان يستوعبها حتى الأشخاص ذات مستوى تعليمي ابتدائي المرحلة الأولى في عملية التبسيط.

الجمهورية اللبنانية

مكتب وزير الدولة لشؤون التنمية الإدارية
مركز مشاريع ودراسات القطاع العام