REPUBLIKA E KOSOVËS
Republika Kosova - Republic of Kosova
Ministria e Digjitalizimit dhe Administratës Publike
Ministarstvo Digitalizacije i Javne Uprave
Ministry of Digitalization and Public Administration

Manual

Administrative Burden Reduction for Citizens and Businesses

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1. General introduction

Administrative burden reduction is one of the key issues concerning interaction between the administration, on the one hand, and citizens and businesses, on the other. Poor delivery of administrative services (hereinafter referred to as "services") and unnecessary administrative burdens create an unfavourable business environment, reduce the level of formalisation, increase the costs of conducting private activity, cause loss of time and frustration, and foster corruption.

These consequences arise from excessive requirements for approvals or notifications from or to the administration, unnecessary procedures, contradictory legislation, inadequate implementation of legislation, overlapping legal obligations, unclear information, excessive formalisation of service-delivery procedures, insufficient capacity for quality delivery, lack of digitalisation, and failure to apply general administrative principles, among other factors.

For this reason, preventing and reducing administrative burden and improving service delivery for citizens and businesses has always been an objective of the Government of the Republic of Kosovo. The Government has undertaken a targeted intervention in this area, covering all services at central and local level, with the primary focus on improving the business climate and eliminating excessive rules.

This document is a Manual containing a methodology intended to improve service delivery, based on a combination of two principal approaches: (i) reduction of administrative burden; and (ii) administrative simplification or re-engineering of the service-delivery procedure, while also taking advantage of the opportunities offered by technology and the increasing digitalisation of administrative services.

The methodology aims to improve service delivery while at the same time ensuring that the intended level of protection of public interests is not compromised. On the contrary, those interests remain equally protected, while their protection becomes more "intelligent" and less "obstructive" for citizens and businesses, and consequently more "efficient", using innovative administrative instruments, technology, and improved administrative capacity.

This methodology is a first attempt to structure the future direction of the service-delivery improvement process already initiated by the Government. It serves both the process of reviewing existing services and the process of designing them *ex nuovo* when legislation is amended or new legislation is adopted.

This Manual is structured into several main parts. It begins with a concise explanation of the concepts and terminology used and continues with the methodology for the reduction of administrative barriers in legislation. This is organised into four sub-parts: I) the administrative burden reduction process; II) assessment and redesign of the Service; III) re-engineering of the administrative service procedure; and IV) a summary with guidance for facilitating digitalisation in the review or design process of services, as well as safeguarding procedural rights within this digitalisation process.

2. Some conceptual and terminological clarifications

The terms “**public service**”, “**administrative service**”, or simply “**service**” are used in this document to cover **every instance of mandatory interaction between citizens, businesses, and the administration involving an approval, notification, or exchange of information**.

There are dozens of definitions and classifications of the concept of a “service” and hundreds of names or labels, such as **licence, permit, authorisation, consent, certification (professional, personal, or process-related), approval, concession, registration, allocation of a number, notification, declaration, and others**. In essence, all of these are manifestations of state regulatory instruments. Several classifications are presented below, which naturally cannot be and are not exhaustive.

According to the nature of the obligation, services can be classified as: (i) prior approval, notification, or registration services; and (ii) other obligations.

i) **Prior approval, notification, or registration** refers to regulatory instruments and processes that provide for approval or prior notification (*ex-ante*), namely approval or another form of interaction, such as notification or provision of information, before an activity or action begins or is carried out, enabling individuals and businesses to engage in an activity or perform a specific action. Accordingly, the individual or business may carry out the relevant activity or action only after having obtained the approval of the competent administration or after notifying or registering with that administration. Put simply, such a scheme is a mandatory interaction that, as a rule, requires prior approval by the administration of an application granting the subject the right to conduct **an activity** (an ongoing activity), perform **an action** (on a one-off basis), or **use a limited public good** (the environment, natural resources, state or public property, etc.).

ii) **Other administrative obligations**: in addition to the above, a citizen or business may be required to submit additional, periodic, or one-off [*unique*] data or information, or to perform a particular action. These are divided into: a) **an information obligation —** the mandatory submission of information or a notification, which may be occasional (for example, notifying the veterinary authority of an infection) or periodic (for example, monthly or annual tax returns); and b) **an action obligation** — the obligation to do something rather than merely submit information, such as registering a newborn, paying an amount, or maintaining a mandatory register (for example, food traceability records).

According to the "nature of the right" they grant to beneficiaries, services may also be classified as:

i) Services related to the **use of public goods** — this category includes prior approval, notification, or registration that grants the holder (beneficiary) **the right to use a public good** under the prescribed conditions (for example, a mining exploitation permit or an environmental permit). Competitive use of public assets through contracts is also classified as a permit.

ii) Services related to the **pursuit of an economic activity** — this category includes prior approval, notification, or registration that grants the holder (beneficiary) **the right to commence and carry on an ongoing** commercial/economic **activity** (for example, approval to operate as a food business operator).

iii) Services related to the **pursuit of a professional activity** — in this category, approval (as a rule, after it has been assessed or verified that the individual possesses the legally required knowledge, skills, experience, or other professional qualities) grants the holder (beneficiary) **the right to commence and practise a professional activity** connected with a profession or a body of knowledge and skills, such as a lawyer's licence or a licence to use plant-protection products.

iv) Services related to **a specific action (on a one-off basis)** — this category includes prior approval, notification, or registration that grants the holder (beneficiary) **the right to perform one or more interconnected specific actions** (for example, importing a specified quantity of goods on a specified date or during a specified period).

According to the type of administrative procedure, services may be classified as:

i) **approval** services: involving assessment of whether substantive conditions have been met and the granting of prior approval as a condition for carrying out an activity or performing an action;

ii) **notification** services: involving notification by an individual or entity to the administration of a fact, such as the commencement of an activity. For example, some states provide in their legislation for procedures for notifying the commencement of an activity. Upon submission of such notification, certified by confirmation of its receipt, the entity acquires the right to begin carrying out the activity or performing the action, while the administration acquires the right, within a specified period, to conduct an on-site inspection to verify compliance with the substantive conditions laid down in legislation;

iii) **registration** services: involving notification by an individual or entity to the administration of certain data. The administration verifies whether the data are complete, without examining compliance with any substantive condition, and if yes, then it certifies the registration, and as a rule enters it in a register and provides the entity with a number or algorithm, usually forming part of a certificate or confirmation, which assists in identifying it for specified purposes. Through this registration, the entity acquires the right to carry out the activity concerned.

Kosovo's legislation is complex in terms of the concepts and terminology used. The basic terminology is that contained in Law No. 04/L-202 on the System of Permits and Licences. It is important to understand that the same terminology is frequently used differently in specific sectoral legislation. In accordance with the Law on the System of Permits and Licences, the following principal meanings/classifications apply:

i) **permitting** (editor's note: used as a verb) — the regulatory activity that the state "uses to regulate private and public activity"; types of permits differ in their degree of strictness, which must be proportionate to the level of risk posed by the regulated activity. Depending on the <u>risk</u> and <u>the nature of the activity or action</u>, permitting may take the form of a Permit, Registration, Professional Licence, or Notification.

ii) **permit** — a type of permitting intended for **activities** that pose **a medium or high risk** to public health, safety, or the environment and that are not regulated through a professional licence.

ii) **registration —** a type of permitting intended for **activities carried out on a continuous basis** that pose a **low risk** to public health, public safety, or the environment.

iii) **professional licence —** a type of permitting granted to **a natural person to engage in a specified profession**, the exercise of which poses **a medium or high risk** to public health, safety, or the environment, as determined by law.

iv) **notification —** a type of permitting for **activities carried out on a one-off** basis that pose **a low risk** to public health, public safety, or the environment.

v) **voluntary declaration of compliance —** a voluntary report to the competent authority declaring compliance with the requirements of an issued permit during the conduct of the activity.

3. Part one: the administrative burden reduction process

The administrative burden reduction process comprises several stages, the most important of which are: i) identification and description of the procedure; ii) analysis and proposal for review; and iii) implementation and evaluation of the changes.

A) Identification and description of the service

The purpose of this first stage is to collect the information required concerning the service, namely the regulatory instrument and the administrative procedure in question. The analysis and review of the instrument and procedure will be based on the information collected during this stage. At the end of this stage, the instrument is generally identified and catalogued, and an information sheet [*fiche*] is prepared containing all information required for analysis of the instrument and the relevant administrative procedure. The complete sheet/description should include at least the following key information elements:

a) the relevant **legislation**, including primary and secondary legislation, as well as internal regulations and standard procedures defining: i) the substantive rules governing the activity or service; ii) the rules on competence defining responsibilities; and iii) the procedural rules, including time limits, notifications, administrative silence, appeals, etc.;
b) **the public interest protected** and **the mechanism for protecting that interest**, including a narrative explanation of the protected interest and the mechanism through which the instrument operates to protect it;

c) **the permitting criteria/conditions/requirements**, in other words the conditions or requirements that the entity must satisfy to benefit from the permitting decision;

c) **the information** and **documentation required**;
d) **the procedure**, which should be broken down into stages (initiation, review, completion), into steps within each stage, and into tasks, which are the basic units of work within a single unit;

e) **the responsible units** involved in administrative review and decision-making, including who initiates the procedure, who conducts the administrative review, who provides views, opinions, or other approvals, who drafts and proposes the decision, and who takes the final decision;

e) **the time limit** for the administrative procedure — both the statutory time and the actual time required should be recorded;

f) **the validity period** or **periodicity** of the permit;

g) **the payments/fees** due for the permit, as well as any specific **taxes** for the continued conduct of the activity;

gj) **the level of digitalisation**: digitalisation is assessed both within the administration, including workflow systems, electronic signatures, electronic files, and audit modules, and in the relationship with the entity, including: i) information; ii) one-way interaction; iii) two-way interaction; and iv) digitalisation of administrative review and/or decision-making, ranging from assisted decision-making to partially or fully automated decision-making, etc.;

B) Analysis and review

Once all the information described in the preceding sections has been collected and documented, it is analysed with a view to improving the regulatory instrument and the procedure. Analysis and review aimed at reducing administrative burden essentially comprise two or three basic approaches or elements:

- **i) assessment and redesign of the regulatory instrument in terms of its legality, necessity, and suitability for protecting the intended public interest;**
- **ii) re-engineering and administrative simplification of the administrative procedure for obtaining or benefiting from the service; and**
- **iii) ensuring that the redesign of the service/procedure enables digitalisation and mitigates the associated risks.**

Firstly, based on the information collected during the descriptive stage, the initial question is whether the service itself is lawful. It is then assessed whether it is necessary and appropriate. If not, its elimination should be considered. Alternatively, the service may be merged with other similar procedures of the same family or type, eliminating any unjustified specific features.

Secondly, the administrative procedure for obtaining the service is assessed with a view to redesigning (re-engineering), improving, simplifying, and facilitating it.

Thirdly, once re-engineered, the procedure is digitalised to the greatest extent possible, enabling equal and inclusive communication between citizens, women and men, and businesses, on the one hand, and the administration, on the other, including administrative review and administrative decision-making.

C) Implementation and ongoing evaluation

Second stage (B) above concludes with a set of recommendations for changes to legislation or work processes, or for the design of new legislation and/or processes. Once agreed, all such recommendations must be approved and subsequently implemented. During implementation, everything should be continuously evaluated and monitored to assess the impact achieved.

4. Part two: assessment and redesign of the regulatory instrument

4.1. Introduction

Every identified Service should be analysed with a focus on reducing administrative burden. The purpose of the analysis below is **to eliminate unnecessary services; merge them with other services or incorporate them as components of other services under the "*life event*" approach; reduce unnecessary permitting criteria that increase compliance costs; eliminate unnecessary documents that increase administrative costs; extend validity periods and/or reduce frequency; and so forth.**

Where a service exists, there is also a **public interest** that has been assessed as requiring protection. The state therefore "intervenes" in "private life" by exercising its authority through a service/administrative procedure precisely because life, public health, the environment, public order, public property, and similar interests must be protected. This is the essence of the constitutional-legal and logical "construct" of an administrative service. Therefore:

Firstly, an individual or business has the **constitutional freedom** to perform any work, practise any profession, or undertake any economic, professional, or private activity, **except where the state prohibits, restricts, or subjects it by law** to prior approval through a service, namely an approval/authorisation scheme. The same applies to other administrative obligations. This reflects the spirit of Article 49 of the Constitution and is also provided for in Article 4 of the Law on the System of Permits and Licences.

Secondly, the **law** may provide for a prohibition or restriction **only** where it aims to **protect an overriding public interest**, such as life, public health, the environment, public order, or public property, which could be endangered if the activity were carried out without prior control. Freedom is, therefore, made conditional because the restriction is necessary to protect a public interest that prevails over the private interest. This is provided for in Article 55(1) of the Constitution.

Thirdly, a public interest may be protected through **different regulatory instruments**. It may be protected by making the activity subject to prior approval, notification, or registration, which are forms of *ex-ante* intervention; by periodic notification obligations; or by *ex-*

post instruments, such as inspection of the activity while it is being carried out. In essence, **the state should select an instrument that is suitable for protecting the intended public interest while imposing the least burden** on the individual or business. See Article 55(2)–(5) of the Constitution.

Accordingly, the first step in any analysis pursuing this objective is to **identify the public interest** protected by the service and to **understand and break down the protection mechanism**, namely the *modus operandi* through which the particular type of Service and the relevant substantive conditions, or permitting criteria, secure protection of the public interest concerned.

4.2. Legality and the Necessity/Proportionality of a Service

For a service to exist, it must be lawful and proportionate, meaning necessary, suitable, and balanced. The specific instrument, in terms of both type and form, must also be proportionate to the risk posed by the activity or action.

4.2.1. Legality of a service

As noted above, a citizen/individual or business has the constitutional freedom to perform any work, practise any profession, or undertake any economic, professional, or private activity, except where the law prohibits, restricts, or subjects it to prior approval through an approval/authorisation scheme. The same applies to other administrative obligations: in principle, an individual or business has no obligation unless it is expressly imposed by law.

This principle derives from the Constitution of the Republic of Kosovo and is expressly provided for in Articles 49 and 55(1), (2), and (3), and is also set out in Article 4(1) and (2) and Article 17(1) of the Law on the System of Permits and Licences.

<u>Issue 1: Is the service lawful?</u> That is:	**The analysis of a Service should therefore assess whether:**
i) is it provided for in primary legislation? and	***<u>First,</u>* every Service must have a clear legal basis and be provided for in a law adopted by the Assembly. It cannot be created or derived from secondary legislation, such as a Government regulation or administrative instruction.**

ii) is it provided for clearly and specifically? *Type of test: Legality test*	***Second,*** **the law providing for a service must be sufficiently clear to identify each specific Service, and the regulation must be specific enough to prevent the Service from being treated as a category and subdivided into several individual Services. The basic rule is that a "Service is an exception—a restriction on the rule of economic freedom/freedom of private life—and every legal provision should therefore be interpreted *stricto sensu*."**
Conclusion	**If the analysis shows that a Service does not arise expressly from a provision of a law adopted by the Assembly of the Republic of Kosovo, it is unlawful and therefore must not exist. The provision must also expressly define each individual state intervention, including prohibitions, restrictions, or conditions.**
Legal basis	Article 4(1) and (2) and Article 17(1) of the Law on the System of Permits and Licences.

4.2.2. Necessity/need for a service

Even where a service is provided for by a law adopted by the Assembly of the Republic of Kosovo, the analysis must also examine whether its existence is necessary. The assessment of a service should include at least several cross-cutting analyses or evaluations. The first is an analysis of the relationship between the Service and the protected interest: first, whether the protected interest justifies state intervention; and second, whether that interest should be protected by this type of state-intervention instrument, meaning an assessment of the choice of the particular instrument used to safeguard the public interest. This assessment lies between legality and expediency, or proportionality.

<u>Issue 2: Is the service necessary?</u> That is: **i) does the Service protect a Public Interest?** **ii) does that interest belong to the category of public interests that**	***First,*** **if the service cannot be identified as protecting a public interest, it should not exist.** ***Second,*** **in principle, carrying out an activity or performing a one-off action may potentially harm life, health, citizens' rights and legal interests, public order and safety, national security, fair competition or market functioning, public goods, social objectives, or another public interest of a similar nature if it is not**

should be protected under the law? **iii) is there a concrete/real risk to the public interest intended to be protected? and** **iv) can that risk be avoided without regulatory state intervention?** ***Type of test: Legality Test and Proportionality Test***	**performed in accordance with certain standards. In principle, any such public interest may justify state intervention in any form, between any instrument. However, Kosovo legislation, specifically the Law on the System of Permits and Licences, limits the types of interests that may, in principle, justify state intervention through a Service in the form of an approval/authorisation scheme.** **Accordingly, pursuant to Article 1 of the Law, permitting may be used only where necessary to protect: i) public health; ii) public safety; iii) the environment; and iv) the use of natural resources.** **The analysis should therefore verify whether the Service was established to protect a public interest and whether that public interest falls within a category protected by law. Such an assessment is not an exact science and involves elements of interpretation of indeterminate concepts. Nevertheless, it is also a legality test.** ***Third*, state intervention to protect a public interest requires a real risk that a particular activity/action may harm that public interest, meaning:** **i) the harm must reach a certain degree of magnitude/severity and not be negligible in terms of its scope of impact and seriousness; and** **ii) it must be possible or likely to occur, rather than impossible or merely theoretically possible, while taking account of the precautionary principle.** **A Risk Assessment should be carried out to make this evaluation more concrete. At this stage, the risk posed**

	by an activity or action should be assessed objectively in two respects: i) the severity and irreversibility of the harm, including the seriousness and scope of the consequences; see Article 19(2.1) and (2.2); and ii) the likelihood/probability of occurrence; see Article 19(2.3). If the severity of the harm or the probability of occurrence is negligible, there is no concrete risk to the public interest, and state intervention is therefore unnecessary and unjustified. This element is also provided for in Kosovo legislation, which states that permitting is lawful only where "it has been established on objective grounds that the activity poses a risk". Article 19 on risk assessment further specifies the factors to be considered: i) the scope of the impact; ii) the severity of the consequences; and iii) the probability of non-compliance. *Fourth,* even if the analysis shows a real risk that a particular activity/action may harm a protected interest, the assessment should examine whether the (real) risk can be avoided without state intervention, since the public interest may also be protected through non-regulatory measures such as awareness-raising or industry self-regulation. This element is likewise provided for in Kosovo legislation, which states that permitting is lawful only if the risk cannot be "addressed through free-market mechanisms".
Conclusion:	If the analysis shows that the Service is not connected with protecting a public interest or does not seek to protect a public interest defined by law, it should not exist.

	If the analysis shows that the risk is not real—of appreciable magnitude and likely to occur—the service should not exist. **If the analysis shows that the interest, although real, can be protected through other non-regulatory measures such as awareness-raising or outreach, intervention through a regulatory service is not necessary.**
Legal basis	Article 1(1) and (2), Article 4(4.1), and Article 4(4.2) of the Law on the System of Permits and Licences.

4.2.3. Suitability and proportionality of the instrument (type and form of the service)

The assessment of a Service should also include a second evaluation forming part of the **proportionality test.** It should analyse: i) whether the instrument is suitable for preventing the risk; and ii) among the suitable instruments, whether the selected instrument is the least intrusive of those available for achieving the intended objective. Put briefly, it assesses whether the interest should be protected by this type of state-intervention instrument and therefore evaluates the choice of the specific instrument used to safeguard the public interest. This assessment lies between legality and expediency, or proportionality.

<u>Issue 3:</u> Is the form and type of the service suitable and least intrusive? That is: **i) is prior intervention necessary? and** **ii) is the selected or proposed intervention instrument proportionate to the severity of the risk?** ***Type of test: Legality Test and Proportionality Test***	***<u>First,</u>*** **regulatory state intervention may take different forms depending on the timing of intervention. It may be ex-ante, such as requiring prior approval before an activity begins, or ex-post, during the conduct of the activity, such as periodic information obligations or inspections of how a business carries out its activity. etc.** **To select, amongst several available forms or means, an ex-ante regulatory instrument rather than an available ex-post instrument in a particular case, the ex-ante form must be more <u>suitable</u> for preventing or reducing the potential risk before the activity begins, and <u>no other measure may achieve this more effectively</u>. The chosen form of state intervention must therefore be proportionate**

(principle of proportionality). The state may select the regulatory instrument of the type of prior approval, registration, or notification only where it is necessary to prevent or reduce a risk before the activity begins because due to the *nature of such activity* it may be possible that it can cause immediate harm to the protected public interest.

The assessment therefore examines whether the risk must be managed before the activity begins. It should be determined whether a prior approval scheme is necessary or whether a periodic information obligation and/or ex-post inspection would suffice. If the risk can materialise immediately, a prior service requiring prior approval may be necessary. If the risk should not be managed before the activity commences as there is no probability that the risk will arise immediately, *ex-ante* intervention should be excluded.

This element is also provided for in Kosovo legislation, which states that permitting is lawful only if it "*uses the least restrictive means sufficient, that is suitable, to address the identified risk or impact*". See Article 4(4.4) of the Law on the System of Permits and Licences.

***Second,* the second assessment concerns the type of instrument that may be selected.**

There are several types of authorisation schemes: classic prior approval, registration, or notification. Selection of the form and type of instrument should be based on a graduated regulatory response proportionate to the level of risk caused by the activity. The key word here is proportionality:

proportionate to the risk under Article 4(4.3) and least restrictive in addressing that risk under Article 4(4.4).

A prior-approval service is proportionate where the activity poses a high risk and *ex-ante* conditions and safeguards are essential for addressing or mitigating that risk. This includes situations where the probability of serious harm is high, the potential harm would be significant and irreversible, and the risk must be managed before the activity begins.

Where the probability of harm is low, or any potential harm is reversible or minor, alternatives to "strict" or "full" permitting, such as notifications or reporting obligations, may be equally effective and therefore preferable.

A risk assessment is required for this purpose. A qualitative risk assessment derives from Article 19 of the Law on the System of Permits and Licences and is presented briefly and schematically in Annex No. 1, attached to and forming an integral part of this Manual.

This choice, based on risk assessment, is already reflected in Kosovo legislation, which requires use of the "least restrictive means to address the risk" and selection of a "form of permitting proportionate to the risk".

Accordingly, under the Law on the System of Permits and Licences, a permit or licence is proportionate only where the risk posed by the activity or profession is medium or high in relation to the protected public interest. Registration or Notification

	is proportionate where the activity or one-off action poses a low risk to the public interest.
Legal basis	Article 4(4.4), Article 4(4.3), and Articles 3, 5, 6, 7, 8, and 9 of the Law on the System of Permits and Licences.

4.3. Permitting Criteria

The substantive/material permitting criteria or conditions are the conditions that must be fulfilled so that the activity or action may be carried out properly without harming or endangering the public interest concerned. Before granting or refusing an application for a permit or licence, the administration must therefore verify that the entity or its activity satisfies the essential substantive conditions. Fulfilment of each of these conditions individually and collectively provides assurance that the risk arising from the relevant activity is avoided or limited, thereby ensuring protection of the public interest.

An approval scheme, irrespective of the procedure used, such as approval, notification, registration, or accreditation, generally includes a number of **substantive conditions** that must be fulfilled by the entity, whether an individual or business, before and/or during the conduct of the activity. Only prior and continuous compliance with these conditions ensures protection of the public interest by preventing or limiting the harm that could be caused if the substantive conditions were not met. Taken together, these conditions form a logical "mechanism" for protecting the public interest at risk.

It should be understood that essential conditions/permitting criteria form **part of the logical mechanism for protecting the public interest concerned**. For example, a shop that processes and sells food products of animal origin may be required to have specified refrigeration equipment because this ensures that products are kept at low temperatures and prevents the risk of food poisoning. Similarly, if products must be processed on stainless-steel work surfaces, those surfaces prevent product contamination. In other words, **each essential condition serves to avert a particular concrete risk**.

Essential conditions/permitting criteria may relate to **professional or physical abilities, experience or knowledge, organisational methods, possession of particular techniques or technologies, capital or material guarantees, legal status, or standards of conduct and ethics**.

It should be emphasised that compliance with these substantive conditions constitutes what is known as a compliance cost. For example, a business may need to employ a technical manager with the necessary knowledge of food commodity science, to train staff in food handling, or invest in stainless-steel equipment or specified refrigeration equipment for food storage. Meeting these conditions imposes a significant burden in terms of cost and time on the business, and their definition therefore requires particular care. Each condition must be proportionate, in accordance with the principle of proportionality, and must fit within the logic of the mechanism for preventing the specific risk to the public interest. Every condition should be assessed through several tests to determine whether it is lawful, proportionate, and clear.

In Kosovo legislation, these are defined as "permitting criteria" in Article 17 of the Law on Permits and Licences.

4.3.1. Legality

<u>Issue:</u> Does the criterion/condition derive from primary legislation and is it further developed in secondary legislation? — Legality Test	**The analysis of a Service should therefore assess whether:** ***<u>First:</u>*** **Permitting criteria should be clearly and exhaustively provided for and explained in legislation; they cannot be "invented" by a public official at the time or on a case-by-case basis.** ***<u>Second:</u>*** **Permitting criteria should derive from primary legislation, at least by being mentioned in "general terms" in the primary law, and be further developed in secondary legislation. This reflects the spirit of the Law, which provides that permitting criteria are "defined by law or by secondary legislation", Article 17(2).** ***<u>Third:</u>*** **Secondary legislation, preferably in the form of Government Regulations rather than ministerial administrative instructions, should determine and define the criteria comprehensively. Other bylaws**

	of the responsible minister may be used only as a last resort to detail highly technical criteria or excessively lengthy definitions. This is also the concept established by Article 17(2) of the Law on the System of Permits and Licences.

4.3.2. Proportionality

<u>Issue 2:</u> Is the criterion/condition suitable, necessary, and proportionate, meaning least intrusive, for protecting the intended interest and consistent with the logic of the public-interest protection mechanism? — Proportionality Test	**Permitting criteria should respond appropriately to the public interests they seek to safeguard. Every condition should be assessed through the proportionality test and must be necessary, suitable, and proportionate.** **In permitting schemes related to the use of public goods, the following principles also apply:** ○ **They should be based on the principles of preserving, improving, and properly using the public good concerned, as well as principles of maximising public benefit, proportionality, avoidance of bureaucracy, non-discrimination, and integration of a gender perspective in defining and applying the criteria.** ○ **They should respond adequately to the public interests they seek to safeguard and may consist of qualifying and/or competitive criteria.** ○ **Qualifying criteria are used to select applicants who meet the minimum and/or necessary requirements for use of public goods. Their possible impact on equal access for women and men should be considered when defining them.**

	○ **Competitive criteria are used to select the applicant offering the best use and/or highest value compared with other applicants who meet the qualifying criteria. Competition should be based on predetermined, transparent, and fair criteria and procedures, taking account of their impact on equal access for women and men.**

4.3.3. Clarity in the definition of permitting criteria

<u>Issue 3:</u> Is the criterion stated clearly and precisely, without leaving room for differing interpretations? **Clarity test**	**1. Material conditions should be written clearly, concisely, and precisely so as not to leave room for interpretation or subjectivity, taking account of direct or indirect effects on women or men.** **2. Material conditions should be based on objective, measurable, simple, and understandable indicators.**

4.4. Supporting or Evidentiary Documents

When submitting an application to obtain a service, the applicant, whether a citizen or business, must provide certain information or submit documents. As a rule, the required documents are divided into: **Evidentiary Documents**, meaning written acts issued by a public or private institution, or documents prepared by the applicant, which prove fulfilment of a specific condition; and **supporting documents**, meaning mandatory documents that do not serve an evidentiary function, submitted together with the application. It should be emphasised that preparing and obtaining these documents constitutes an administrative burden—specifically, **an administrative cost**—because they create expenses arising from a legal obligation. **These costs affect different groups of citizens, including women, men, and vulnerable groups, and businesses differently, particularly according to their financial resources and available time**.

Simplifying and/or reducing documentation is directly linked to the application of the principles of legality, proportionality, informality, and efficiency.

Fewer documents, but it is better--eliminating all documents and data elements requested from the applicant that are not strictly necessary, or are merely "nice to have", for taking a particular decision.

<u>Issue 1:</u> Is the required information/document lawfully required? — Legality Test (DoCM) **<u>Issue 2:</u> Is the "once-only" principle respected?** **<u>Issue 3:</u> Is the required information/document proportionate? — Proportionality Test** **<u>Issue 4:</u> Is the information/document defined clearly and unambiguously?**	**The analysis of a Service should therefore assess whether:** ***<u>First:</u>* The obligation to provide required documents should derive from secondary legislation, or directly from primary legislation, and cannot be "invented" by the administration on a case-by-case basis.** ***<u>Second:</u>* The "once-only" principle for submitting data to the administration should be respected. Data should be obtained through direct access, electronic inter-institutional exchange, and similar means. Documents already held in administrative registers should not be requested but obtained ex officio through direct access or electronic exchange of data or information between institutions.** ***<u>Third:</u>* Every required document or item of information should, in principle, either prove compliance with a criterion/condition or provide information necessary to verify that criterion/condition. Documents from other entities should, as far as possible, be replaced by self-declarations.**

	Fourth: **Documents should be defined in legislation clearly and understandably, without room for interpretation or subjectivity. Legislation should define both their content and form in general terms, for example, *"the document proving/serving to prove the existence or fulfilment of …"*, linked to the relevant condition.**

4.5. Validity or Periodicity

The validity period of a service is one of the key elements in reducing administrative burden. Simplification of this element is achieved by **extending the validity** of the approval instrument and **reducing the frequency** with which the same service must be applied for. For example, when the validity of an information obligation is extended from one to two years, the administrative burden is reduced by **100%**; when it is extended from two to three years, the burden is reduced by **50%**; and when it is extended from four to five years, the burden is reduced by **20%**.

Issue 1: Is the validity period of the permitting decision or the periodicity of the obligation determined lawfully?	**The analysis of a Service should therefore assess whether:** **The validity or frequency of a service should be clearly determined in primary or secondary legislation. Given its importance, it is advisable to define it in primary legislation.**
Issue 2: Is the validity period of the permitting decision or the periodicity of the obligation proportionate?	**As a rule, the validity period of a service in the form of an approval should be unlimited in time. Where otherwise provided, it should be extended for as long as there is reason to believe that the permitting criteria/conditions will continue to be properly fulfilled throughout that period:** **a) the validity period of a permit should last for as long as there is a reasonable basis for**

	believing that the criteria will retain their function during that period. **b) the validity period of a permit for a one-off action should last long enough to allow the entity to carry out the authorised activity normally.** **c) the frequency of a mandatory information obligation should be as low as possible.**

4.6. Interrelated Administrative Conditionality

In some cases, completion of the procedure for obtaining an administrative service (AS) is made subject to other conditions or actions that are unrelated to the service for which the party applied. Examples include making the service conditional on payment of fines—for instance, requiring a fine to be paid before a vehicle can be registered or ownership transferred—enforcement of another financial obligation owed to the state, or fulfilment of another obligation in order to receive an unrelated service.

<u>Issue 1:</u> Is the conditionality logically connected and does it override the citizen's right to receive the service?	**The analysis of a Service should therefore assess whether:** **So-called cross-sectoral conditions, which make approval conditional on another service or on payment of a fine as an enforcement mechanism, should be permitted only where they are naturally connected with the logic of the service—for example, registration in the Business Register cannot be done because a late-payment fine or a fine for a previous violation has not been paid.** **Such conditionality should be eliminated. This does not mean abolishing fines but removing payment of them as a prerequisite for obtaining an AS, whether an information obligation or another service. Eliminating administrative conditionality is directly linked to applying the principles of legality and proportionality**

5. Part three: re-engineering and administrative simplification of the administrative procedure for obtaining the service

In essence, service delivery involves a process that constitutes a specific **administrative procedure** structured in accordance with the rules laid down in the relevant sector-specific law and the Law on General Administrative procedure.

The procedure for delivering a Service is an administrative procedure. As a rule, it includes an “administrative review”, which is the process of receiving and assessing whether the permitting criteria for granting approval to carry out a particular activity have been met. It may consist of a full review of compliance with the conditions, or a simplified review based on an assumption of compliance. In the case of mandatory information, the procedure consists only of submission and confirmation of receipt.

As a rule, an administrative procedure, like any other procedure, includes the following main elements:

1) **Obtaining information about the scheme,** both public and personalised, including initial information and active assistance; and obtaining by the citizen/business the information required for the relevant AS, in particular the substantive conditions that must be fulfilled to obtain approval for the relevant activity;
2) **Preparation for meeting the permitting criteria/conditions,** including investments, preparations, etc.;
3) **Submission of an application for the relevant approval;**
4) **Preliminary review of the application and its completion, where necessary;**
5) **Administrative review—**consisting of an assessment of whether all necessary information has been submitted and whether the substantive conditions laid down in legislation have been met. This stage may consist of a simple review of information self-declared by the applicant; a documentary review of the documents submitted; an on-site verification of compliance with the permitting criteria, such as inspection of technology, measurements, competitive procedures, testing, etc. The administrative review may involve only one administrative unit or may include views, opinions, or other input from additional units;
6) **Participation of the parties in the relevant procedure, particularly the hearing of the parties;**

7) **Final decision-making,** whether by a single authority or a collegiate body, by the responsible official or another authority, within a time limit running from submission of the application;
8) **Notification of the decision approving or refusing the application;**
9) **Appeal.**

As previously noted, the purpose of re-engineering or procedural simplification is to make administrative procedures simpler, easier, and less cumbersome. However, the very existence of predetermined procedures in public administration serves two fundamental objectives: ensuring the correctness of administrative action and observance of the principles of legality and legal certainty. These principles, together with the public interest embodied in the quality of public services and responsiveness to citizens' needs, define the limits within which any effort at procedural simplification may operate. **Put plainly, "simplification" cannot go so far as to undermine the public interest or the purposes inherent in the procedural institution itself.**

In essence, the aim of procedural simplification is to reduce procedures to their optimal dimension—**light enough to avoid unnecessary complexity, but robust enough to guarantee legality, legal certainty, and institutional safeguards serving the citizen**.

For our purposes, it may be said that in all cases, understood broadly, the procedure includes the following main stages:

1. the procedure for applying for the relevant approval;
2. administrative review of compliance with the conditions;
3. adoption of the decision and the relevant legal remedies.

As a re-engineering process, it should begin with **mapping the procedures**, analysing them with a view to designing the simplified future process/procedure, and constructing the new workflow through:

1. removal of unnecessary steps;
2. clarification and simplification of administrative review;
3. regulation and rationalisation of the relevant decision-making, including application of tacit approval as a general rule.

When assessing and redesigning the procedure, consideration should also be given to the new legal mechanisms provided for in the LGAP and to the opportunities offered by digitalisation for simplifying and improving the review of public services.

5.1. Issue 1: The Procedure in General

Introduction: **The procedure for handling applications is an administrative procedure and is subject to the provisions of the special law, supplemented by the provisions of the LGAP.**

Principles: Rules/principles for a re-engineered administrative procedure:

1. The procedure should be regulated clearly and comprehensibly.
2. The procedure should be designed in accordance with the principles of informality and procedural efficiency. It should therefore be as simple, swift, and low-cost as possible for both the applicant and the administration, without compromising the objective of reaching a lawful and correct decision and protecting the public interest.
3. The competent institution/body involved in decision-making should be clearly identified.
4. Assessment of compliance with the criteria for state approval should be based on: the applicant's self-declarations; documents issued by public bodies or private institutions; technical assessments; prior on-site inspections, where applicable; tests; competitions; interviews; hearings; or other appropriate assessment methods.
5. On-site inspections to verify compliance with substantive conditions should be regarded as a measure of last resort, applicable only where self-declaration or documentary review cannot function adequately.
6. The procedure should make use of innovative technological developments both in interactions with citizens and in inter-institutional communication. This applies both to obtaining information, opinions, or decisions from other administrations and to communication with citizens/businesses.
7. The procedure should use and rely on the innovative administrative mechanisms of the LGAP, such as the single point of contact, the "once-only" principle, tacit approval, and others.

8. The procedure should take account of the different needs and circumstances of different groups of applicants, including gender, social, and accessibility aspects, such as women and men, persons with disabilities, and residents of rural areas. It should be designed and implemented so as not to create unnecessary barriers and to ensure equal access to the service, in accordance with the principles of gender equality and non-discrimination.
9.
10. Special procedures that differ from the provisions of the LGAP should be exceptional. Where derogating procedures are necessary, they should be expressly provided for in primary legislation.

<u>Legal basis: the LGAP generally, including Article 10 and Article 21 et seq.</u>

5.2. Issue 2: Provision of Complete, Concise, and Clear Information on the Administrative procedure

<u>Introduction:</u> Before submitting an application for a service, the interested party, whether a business or citizen, should have access to **complete information on the relevant service**. This information should be comprehensive and clear, meaning self-explanatory, and should include everything required for a successful application/submission.

It should contain at least: the method of submitting the application; the substantive/material conditions to be met and the required documents, including the data, documents, and declarations to be submitted; the procedures and formalities necessary for granting state approval; the institutions and bodies involved in the decision-making process; the time limit for notification of the final decision; and the legal remedies available and the manner in which they may be exercised.

<u>Assessment principles:</u>

1. The information should be complete, concise, and clear. It should enable the potential applicant to understand and apply it. At a minimum, it should contain: the method of submitting the application; the permitting criteria and conditions to be met and the required documents, including the data, documents, and declarations to be submitted; the procedures and formalities necessary for granting state approval; the institutions and bodies involved in the decision-making process; the time limit for notification of the final decision; and the legal remedies available and the manner in which they may be exercised.

2. This information should be self-explanatory, clear, and accurate, written in plain Albanian (SQ) and in the other official languages in accordance with the Law on Languages.
3. This information should be unique, at least in its written version, regardless of the source from which it is obtained.
4. The information and the manner in which it is provided should reflect how the relevant administration understands, interprets, and applies the relevant rule/requirement, without itself amounting to legal assistance from a law firm.
5. This information should be available without a prior request, including at the physical reception premises of the competent administration and at the single point of contact, where applicable.
6. This information should be available without a prior request in electronic form on the website of the competent institution, at the single point of contact, where applicable, and on the electronic portal; and
7. It should be possible to request further clarification, physically or electronically, beginning with FAQs and including email, a help desk, and similar channels.
8. The information should be accessible to all applicants, including persons with disabilities and other vulnerable groups. It should be provided in appropriate and usable formats, such as accessible digital formats, legible print, and/or other alternative formats where necessary, so as to ensure equal and effective access to information.
9.
10. The public administration—that is, the competent body or single point of contact—should actively help and assist the citizen/business in understanding and fulfilling the conditions. This should be done both at the information-gathering stage and throughout the administrative procedure.

Legal basis: **LGAP** (i. Article 11—Principle of Information and Active Assistance; ii. Article 33—Single Points of Contact; iii. Article 71—Use of Languages).

5.3. Issue 3: Single Points of Contact

Introduction: Single points of contact have proved to be user-friendly and efficient tools for improving service delivery. Combining them is key to success.

Principles: General assessment principles:

1. The use of single points of contact, whether physical or electronic, should be promoted.
2. A combination of electronic and physical single points of contact should be permitted.
3. A combination of general single points of contact and those based in specific institutions should be permitted.
4. Single points of contact are an "option", meaning that the citizen/business may choose to use them, while retaining the guaranteed right to approach directly the administration competent for the relevant administrative decision.

Legal basis: LGAP (Article 33, Single Points of Contact).

5.4. Issue 4: The "Once-Only" Principle (OOP)

Introduction: The **Once-Only Principle (OOP)** means that citizens and businesses should submit data to the administration only once. Use of existing administrative registers for automatic registration, pre-filling application data, or determining whether criteria are met has proved to be a highly effective instrument of administrative simplification. The role of public administration is to share these data within and between institutions so that citizens and businesses are not subjected to additional burden. Repeated submission of the same data is burdensome and time-consuming for both citizens and businesses. Moreover, it is unreasonable because most of the data are already held in public-authority sources.

This principle is expressly established in Article 86 of the LGAP: **"documents that certify acts, facts, qualities, or subjective situations necessary to conduct an administrative review shall be obtained *ex-officio* by the public organ conducting administrative procedure..."**.

Principles: Assessment principles:

1. The administration should make a qualitative shift from documents to data.

2. No data or document previously submitted and/or already registered with the administration should be requested again from the applicant.

3. The "once-only" principle should be applied in all AS procedures, in any of its forms. This means eliminating, at every stage, requests to the applicant for information or documents that can be obtained from another institution.

The key is to enable institutions to obtain data efficiently and securely through interaction involving:

– automatic access to electronic registers, requiring expansion of electronic registers/databases;

– electronic requests for information addressed to other institutions;

– any other appropriate means.

Legal basis: LGAP (Article 86, Ex-officio administrative review).

5.5. Issue 5: The Responsible Official and Clear Allocation of Competences for Administrative review and Decision-Making

Introduction: A procedure for an administrative service (AS) may involve more than one public body, different units, and different responsible officials. They may be involved in the administrative review, meaning verification of compliance with conditions/criteria, and in decision-making. These two stages should be clearly regulated and simplified to the greatest extent possible. Delegation to the responsible official should be complete: as a rule, the official conducting the administrative review should also take the final decision.

Principles: General assessment principles:

1. The institution with substantive competence for a particular Service should be **clearly** designated in **primary legislation**. As a rule, it should be designated at institutional level, meaning competence should be conferred on the institution.

2. In principle, competence should be assigned to only one institution. Exceptions involving shared competence should be permitted only in rare cases strongly justified by an overriding public interest.

3. Substantive competence should preferably be conferred on subordinate institutions/agencies with regulatory or inspection functions. Exceptionally, it may be conferred on ministries only in cases strongly justified by the public interest.

4. In principle, authority to take the final decision—approval or refusal of the application—should be conferred on the same official who conducts the administrative review and verifies compliance with the conditions/criteria. This person is known as the Responsible Official. If all conditions are verified by a single official, that official should be competent to issue and sign the final decision.

5. Decision-making under the "four-eyes" principle, requiring one official to conduct the administrative review and another to take the decision, is an exception that must be justified by an overriding reason and provided for by law.

6. Where verification of conditions/criteria is divided among several officials because of professional specialisations, the decision-making authority should be organised as a "service conference" or assigned to their common superior.

7. Collegiate bodies without a functional division of tasks based on professional expertise should, where possible, be avoided because they disperse responsibility and increase the risk of corruption.

8. Multi-stage decision-making should be avoided to the greatest extent possible. Exceptions should be allowed only in a limited number of cases strongly justified by the public interest and the need for checks and balances.

9. Joint decision-making—several administrations/public bodies acting together, or one administration acting on the basis of the consent, opinion, or approval of another—should be the exception rather than the rule. Where necessary because of the specific nature of the procedure, such cases should be defined in primary legislation; see Article 32 of the LGAP. Communication between them should, as a rule, take place *ex-officio* and electronically. A 15-day time limit applies to the provision of an opinion, consent, or approval. A different time limit may also be prescribed by a secondary act under Article 32(3) of the LGAP. Finally, the rules on tacit approval should also apply where the participating administration fails to respond within the legally prescribed time limit, pursuant to Article 32(5) of the LGAP.

10. A proportionality test should be carried out for every step of the procedure.

Test: Every step of the administrative procedure should be assessed through a proportionality test. The test examines whether the procedural step is suitable, necessary, and proportionate for protecting the intended interest, with the objective of eliminating unnecessary levels of decision-making responsibility and ensuring complete clarity of the process.

Legal basis: LGAP (Article 21, Subject-Matter competence; Article 22, Territorial competence; Article 32, Joint decision of public organs; Article 26, Responsible official for the administrative procedure; Article 27, Responsibility for the proceeding and the decision.

5.6. Issue 6: Time Limits for Service Procedures

Introduction: The waiting period for a response to an application creates indirect financial costs. Therefore, depending on the relevant Service, where the time limit prescribed by legislation is found to be excessively long, it should be reduced to a reasonable duration. Simplification of this element is directly linked to application of the principles of legality and proportionality.

Analysis of the time limit requires an assessment of the statutory duration for completing the administrative procedure and the average time required to process a typical case of that kind.

Principles: General assessment principles:

1. The time limit for each Service should be predetermined in legislation and set directly by law or by a secondary act.

2. The time limit prescribed by legislation should reflect the actual average time required to conduct a procedure of that level of complexity, assessed using a generally accepted methodology.

3. The administration should examine and decide as quickly as possible and, in every case, within the time limit prescribed by legislation.

4. Where applicable, services that particularly affect vulnerable groups should provide for shorter review and decision-making periods, taking into account the need for rapid access and the avoidance of delays that may increase vulnerability or produce disproportionate consequences.

Legal basis: LGAP (Article 98, Termination of an Administrative procedure, and Article 98, Deadlines for Termination of Administrative procedures).

5.7. Issue 7: Tacit Approval

Introduction: In accordance with the LGAP, administrative silence should be treated as approval, and the requested administrative service, meaning the approval, should be deemed to have been issued in accordance with the submitted application.

Principles: General assessment principles:

1. Tacit approval is the general rule under the LGAP and should apply to every service procedure.
2. To enable application of the principle, electronic systems and single points of contact should allow automatic issuance of the act or confirmation, in accordance with

Article 100(3), in cases of tacit approval, irrespective of the will of the responsible institution.

3. Nevertheless, for certain types of services, such as permits and licences, it may be necessary not to apply this principle, so that silence is treated as having no effect or as a refusal. Such cases should be well justified by an overriding public interest, such as public safety and order or public health. There must be a high risk, assessed in terms of both severity and probability, that applying the principle would harm public order; see the risk test above.
4. For the reasons stated above, a case-by-case analysis is required to determine whether application of the tacit-approval principle is suitable and necessary in the particular case. If the answer is negative, non-application of the principle should be expressly provided for in relation to the relevant administrative procedure.
5. Exceptions to the rule—that is, non-application of tacit approval—should be provided for only in primary legislation and should remain exceptional and, therefore, be interpreted narrowly.
6. Where an exception is intended, it must be expressly stated in primary legislation. If primary legislation does not expressly provide for non-application of the principle, the general rule under the LGAP applies.
7. Where an act is approved tacitly, the administration should ensure that persons from vulnerable groups are appropriately informed of the decision so that they have equal access to the procedure, bearing in mind that not everyone is equally able to follow an administrative procedure.
8.

Legal basis: LGAP (Article 100, Tacit Approval).

5.8. Issue 8: Fee for the Administrative procedure

Introduction: Under Kosovo legislation, no fee should be charged for an administrative procedure. A fee may be imposed only in exceptional cases. In such cases, it is intended to cover only the administrative costs of the procedure and nothing else. Administrative costs refer to the average costs of an average procedure of the relevant type.

The analysis should include: assessment of the need to charge a fee; and assessment of the average cost of the procedure.

Principles: General assessment principles

1. The obligation to pay an administrative fee for a service procedure should be clearly provided for in a provision of primary legislation. More specifically, a primary law should state that a fee is payable for a service and should also contain a delegation provision authorising the specific amount of the fee to be determined by a secondary act and identifying the public body that adopts that act and, therefore, approves the specific fee. In certain cases, the primary law may also determine the general limits or range of the fee.

2. Where provided for by legislation, the fee should cover only the average cost of that type of procedure, calculated using a well-defined methodology. For further details, see the handbook on cost calculation issued by the Office of the Prime Minister (https://kryeministri.rks-gov.net/wp-content/uploads/2024/01/07-Raport-Doracaku-i-mbulimit-te-kostos-ALB-06.pdf).

3. When administrative fees are determined and applied, their impact on equal access to services should be assessed, including any potentially disproportionate impact on women and men and on vulnerable groups, which may have more limited access to financial resources and consequently be more sensitive to the burden of administrative fees. Where applicable, relief measures or justified exemptions may be provided so that fees do not create unjustified barriers to the exercise of administrative rights.

Legal basis: LGAP (Article 12, Principle of Gratuity of the Proceeding).

6. Part four: digitalisation of services and individual procedural safeguards

6.1. Digitalisation

This part of the Manual faithfully reproduces the **"Checklist on Legislation for the Design and Digitalisation of Services"**, prepared by the Office of the Prime Minister on the basis of the Danish Government's 2018 Guidance on Drafting Digital-Ready Legislation and the Better Regulation [1]Toolbox prepared by the European Commission[2].

Digitalisation of public services is promoted by the national strategic framework, including the National Development Strategy and Plan (NDS/NDP), the e-Government Strategy, the Programme for the Prevention and Reduction of Administrative Burdens (PPRAB), and the Digital Agenda 2030 (DA). This framework incorporates the "digital first" principle in the design of user-centred services.

Digitalisation of services should be considered during their review and/or design. Indeed, this objective should be taken into account in concrete terms during the drafting of legislation so that the design and digitalisation of public services are not obstructed but, on the contrary, promoted.

An important part of this process concerns enabling electronic communication throughout an administrative procedure, including informing the user, submitting the request, authentication, signature, review, and communication with the parties. Particular attention should be paid to identifying legal elements that may obstruct digitalisation.

The checklist also identifies several requirements that legislation should meet in order to promote digitalisation of services as much as possible, including the possibility of

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[1] 2018 Guide to Drafting Digitalization-Friendly Legislation: https://en.digst.dk/digital-governance/digital-ready-legislation/what-is-digital-ready-legislation/.

[2] Tools for Better Regulation, prepared by the European Commission: https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/ better-regulation-guidelines-and-toolbox_en.

automation, process mapping, interoperability and data exchange, and adoption of an innovative approach.

Compliance with and application of this checklist directly contribute to preventing and reducing administrative burden because automation, authentication, electronic signatures, and similar tools reduce the requirements, information, documents, processes, and steps that the user must complete in order to obtain the relevant service from the public administration. Other aspects, such as the validity period or appeal period, are governed by horizontal legislation or legislation specific to the service concerned.

Throughout application of this checklist, it is recommended that, when analysing and taking decisions during legislative drafting, drafters consider differences based on gender, age, place of residence, disability, ethnicity, and other factors that may affect how administrative burden (AB) is addressed in legislation supporting the provision of electronic services.

6.1.1. Electronic communication

In developing legislation for the design of services and preparing them for digitalisation, an essential aspect is the possibility of electronic communication between the parties and the institutions delivering the services throughout all stages of service delivery.

When drafting and amending legislation, provisions that restrict, prohibit, or block such communication during the procedure should be avoided, such as requirements for physical documents where the information they contain can be obtained through interoperability between registers.

Where such registers do not yet exist, the electronic option should be allowed, with a clear statement or provision that this approach will apply once the relevant registers become operational.

When drafting legislation it should be ensured that electronic communication is simple, involves as few steps and procedures as possible, and is usable by all users regardless of their knowledge, age, language, gender, abilities, or available resources.

1. How is user authentication addressed?
A very important component of digital-ready legislation is authentication of service users. In many cases, authentication is carried out through physical appearance, submission of a

copy of an identity card, or other identification documents. To ensure that legislation does not obstruct digitalisation, provisions should not exclude electronic authentication. Such authentication may be carried out through use of the electronic version of the identity card, whether in physical card form or electronically through an application, with different security levels depending on the nature of the service.

Where the service is provided online, authentication may be carried out through the eKosova portal, as the country's single central portal for service delivery.

2. How is the submission of requests/applications regulated?
In some cases, requests or applications have been required to be made in person, accompanied by original documents or physical copies and a handwritten signature. Legislation should avoid this. The language used should, at a minimum, not exclude online applications and should comply with the LGAP requirement that information be provided only once, under the "once-only" principle discussed below in the section on interoperability.

Naturally, depending on the nature of the service, where physical contact cannot be avoided it should be minimised as far as possible. For example, it is almost impossible to digitalise fully the application process for an identity card because a photograph meeting specific standards and biometric data are required. Nevertheless, the service can be redesigned so that the application, payment, and part of the communication between the party and the administration are digitalised.

Where physical appearance is necessary, it should be minimised and organised so as not to create unnecessary burden for users. Services should be delivered through multiple channels—online, physical, and hybrid—to ensure equal access, including for users who cannot complete the process digitally.

3. How is the review of applications regulated?

Legislation governing services should avoid restricting the manner in which review is conducted during the administrative procedure. Wherever possible, the wording used should allow the review, or parts of it, to be carried out automatically and digitally through information and communication technology (ICT) solutions and through automatic interoperability with other systems.

Legislation should likewise not restrict the possibility of using an electronic signature or electronic seal where these are required in communication between public institutions and the parties.

For digitalisation to be genuinely inclusive, legislation should provide users with transparency and traceability, such as application-status information, clear notifications, and understandable reasons in the event of refusal, because lack of clarity increases dependence on informal intermediaries and makes access more difficult for less-supported users.

4. How is notification of the parties regulated?
As a rule, legislation should not exclude electronic communication with the parties throughout the duration of the proceeding, including notification of administrative decisions.

When drafting legislation, wording that excludes electronic notification of administrative acts to the parties should be avoided, in accordance with the legal requirements of the LGAP.

Electronic notification should be practical and understandable and should not be limited to a single method, particularly where some users have unstable internet access or difficulty using the portal.

6.1.2. Decision-making assistance and automation

One of the main benefits that digitalisation brings to service design is the possibility of automating review of applications during service delivery. Such a process reduces the possibility of errors or unlawful interference when assessing different conditions and criteria and gives officials more time to focus on the more complex elements of service delivery that require human judgement.

To ensure that legislation permits automation, the following questions help identify the relevant opportunities:

1. How are permitting conditions and criteria defined?
If ICT solutions are intended to assist in examining the parties' requests, the conditions and criteria must be very clear and objective. They may relate to application requirements, eligibility conditions, criteria for issuing various documents, and similar matters.

Wherever possible, complex provisions should be avoided, ensuring that the conditions and criteria are as clear and comprehensive as possible and contain as few exceptions as possible.

The clearer and more logical these provisions are, the more they enable ICT systems to apply them to specific cases in the future, even if current systems are not yet ready to do so.

Conditions and criteria should comply with the principles of better regulation as European Union standards, contributing to the reduction of administrative burden, ensuring proportionality of requirements, and promoting more accessible, inclusive, and efficient public services for all citizens.

2. How are exceptions to the general rules regulated?
The more complex the provisions, the greater the number of exceptions to the general rules, making automation more difficult and increasing the need for human intervention.

At the stage of examining requests or at other stages of the administrative procedure, there are cases in which human intervention and discretion are unavoidable. Nevertheless, when regulating public services, legal acts should reduce the need for human intervention as far as possible by reducing the complexity of provisions and the number of exceptions.

Naturally, reducing exceptions must comply with legal requirements and must not undermine the level of protection afforded to the rights and legal interests of the parties.

Where human intervention is required, decisions should be taken according to uniform rules and clear procedures to avoid unequal treatment and bias.

6.1.3. Processes

Another way in which legislation can support digitalisation is through the manner in which it addresses the mapping of the processes and steps required to deliver a service. Legislation, particularly secondary legislation, should present these processes in the most streamlined and logical manner possible, thereby facilitating digitalisation in many respects.

The way in which processes are reflected in legislation may be assessed through the following questions:

1. Do the legal provisions clearly reflect the relevant steps and processes for service delivery?
To support digitalisation, legal acts should contain provisions that clearly reflect all steps and processes involved in delivering the service. Ideally, these steps should follow a logical flow, including application, review, payment, issuance of the act/document, and appeal.

The more clearly service delivery is reflected in legislation, the more the digitalisation process is supported, because mapping the steps and processes becomes easier. Such an approach is particularly useful for officials participating in digitalisation teams, making it easier to transform analogue processes into digital ones.

2. Are the duties and responsibilities of the different actors in service delivery clearly reflected?
An accurate and clear presentation of the duties and responsibilities of the different actors involved in service delivery helps divide the service into separate tasks for each actor, thereby facilitating digitalisation.

Such an approach enables digitalisation teams to develop appropriate ICT solutions and to ensure that they are linked to institutional responsibilities and integrated with existing ICT systems.

6.1.4. Interoperability and data exchange

To facilitate digitalisation, legislation governing services should take account of requirements arising from the need for interoperability and data exchange between different institutions. This is essential for applying the “once-only” principle, which is both good practice in service delivery and a legal obligation under the LGAP.

1. Are the same concepts reused in other fields or institutions?
When drafting legislation, particular attention should be paid to enabling application of the “once-only” principle by allowing the reuse of concepts and data between different institutions. Different institutions should use uniform and consistent terminology, thereby enabling semantic interoperability.

2. Does the legislation promote data exchange with other institutions?
The legal framework should promote, or at least not prohibit, data exchange with other institutions, provided that this does not conflict with legal requirements or data-security

standards. Where legislation prohibits or restricts such exchange, the restrictions should be clearly set out in the relevant acts and comply with legislation on personal-data protection and information security.

3. Does the legislation clearly identify the institution responsible for collecting and managing data?
Where data exchange is envisaged, legislation governing service delivery should clearly identify the institution responsible for collecting the data and the conditions under which they may be exchanged with other institutions.

As regards data collection, it should be borne in mind that one of the principal processes supporting service digitalisation is digitalisation of the data administered by the institution itself. This entails developing and maintaining databases in digital format. Legislation should be drafted using language that does not exclude this possibility.

In accordance with the Law on Gender Equality, legislation should ensure the collection, maintenance, and regular reporting to the Kosovo Agency of Statistics, through interoperable systems, of user data disaggregated by sex and age, ethnicity, disability, location, and other relevant characteristics. This can help identify inequalities in access and support corrective measures. To enable assessment of inclusion, legislation should allow institutions to collect and analyse data on service use so as to understand who uses the services and who is left behind. In practice, this also means enabling analysis by gender and other relevant user characteristics, in compliance with the personal-data protection framework.

6.1.5. Innovative approach

Successful digitalisation of service delivery requires room to develop an approach that promotes innovation. Such an approach creates flexibility in the development of digital services.

1. How flexible is the legislation in allowing an innovative approach?
Legislation should provide opportunities for innovation and testing with different systems and technologies during implementation of digitalisation projects. The wording used should reflect this approach and avoid unnecessary restrictions as far as possible. The innovative approach should also allow piloting and testing of services with different users so that practical barriers affecting women and disadvantaged groups can be identified before full-scale rollout.

2. How is the adoption of new technologies regulated?
An important element of the innovative approach is adoption of new technologies, such as artificial intelligence and blockchain. The language used in legislation should not restrict the possibility of applying such technologies.

3. Are there provisions prescribing use of a specific technology for service delivery?
Where legislation promotes electronic communication, its wording should be neutral as regards the technology used. Legislation should maintain technological neutrality both to enable different technologies to be used to provide services of equal quality and to avoid the need for frequent legislative amendments as a consequence of future technological developments.

6.2. Safeguards and Harmonisation with the Provisions of the Law on General Administrative Procedure

As emphasised above, the service-delivery procedure is an administrative procedure and must therefore guarantee the minimum standards for protecting individual rights provided for by the Law on General Administrative procedure. Experience shows that electronic communication and single points of contact, whether physical or electronic, can implicitly undermine these standards if not used properly. These safeguards must be ensured in AS procedures regardless of whether electronic communication or a single point of contact, electronic or physical, is used.

Some of the most important safeguards in this regard are set out below:

6.2.1. Issue 1: Manner/means of submitting the request (submission)

<u>Introduction:</u> Providing additional methods for submitting applications has proved to be a successful practice. Electronic submission of an application/request, as well as electronic communication, significantly increases procedural efficiency and saves citizens and businesses valuable time and resources. The same applies to communication between public bodies for obtaining information or their decisions in cases of joint decision-making. As a general rule, the LGAP provides that a request may be submitted in writing, including electronically, orally, or recorded by any other appropriate means. The LGAP also permits exceptions where justified and provided for by law. Designating electronic means as the sole form of communication is not justified because it may create access difficulties for certain categories of citizens.

<u>Principles:</u> General assessment principles

1. **Electronic submission/communication** of applications for approval or mandatory information, as well as communication throughout the procedure, should be guaranteed wherever possible.
2. Electronic communication is an **"option"**, and its use requires the **consent of the interested party**. Alongside electronic submission, other submission forms/channels, including physical submission, should be guaranteed. Requests should also be accepted through traditional channels other than electronic means. Electronic communication should be encouraged but must not become an obstacle to exercising the right to address the administration. Other available means for submitting requests, including by post or written declaration, should remain in force and available to the party.
3. In electronic communication, **accessible and widely used technological requirements** should be applied. Otherwise, the use of non-universal and uncommon technologies may become a serious barrier to access to these services.

Legal basis: LGAP, Article 73(1) and (3), Form and Content of the Request; Article 76, Submission of Request; Single Points of Contact; Article 158, Transition Related to Electronic Submission and Processing.

6.2.2. Issue 2: Content of the request (submission)

Introduction: As a general rule, the LGAP provides that a request should be **sufficiently clear to identify the applicant and what is being requested, namely its purpose**. The LGAP also permits derogations/exceptions where more restrictive content requirements are justified and provided for by law.

Principles: General assessment principles

1. A request should be accepted whenever it is sufficiently clear to identify the applicant and its purpose.

2. Restrictions are permitted only where justified by an overriding public interest and should be clearly provided for in primary legislation.

3. In practice, the content of the request should be treated carefully, especially where ready-made templates exist for its submission. Such forms are intended to assist and guide applicants in preparing a written request, not to obstruct them. As a rule, any other written request identifying the applicant and the subject matter, or containing the substantive

elements required by the special law and reflected in the relevant form, should be considered a valid/complete request within the meaning of the LGAP. The mere fact that a request was not prepared using the prescribed template does not make it invalid or incomplete if the content required by the special law has been provided.

4. In every case, particularly where electronic forms are used, the applicant should be allowed to add narrative text.

Legal basis: LGAP, Article 73(2).

6.2.3. Issue 3: Unclear or incomplete request (submission)

Introduction: If the application, meaning the initial request, contains deficiencies because it is unclear or incomplete, the applicant should be given an opportunity to correct them. The administration is obliged to communicate with the applicant and request clarification or completion within a specified period. This opportunity should be guaranteed in every Service procedure because it facilitates a favourable decision for the party and is a minimum standard established by the LGAP.

Principles: General assessment principles

1. Where an application is unclear or incomplete, the administration should make every effort to understand and clarify it itself. Where necessary, it is obliged to communicate with the applicant and request clarification or completion. No exceptions to this obligation are permitted.

2. The administration should communicate with the party by the means most appropriate for both the administration and the party, in writing, orally, or electronically. It is obliged to give the party a reasonable period for clarifying or completing the request. The period should provide sufficient time to correct the deficiencies, depending on their nature.

3. The communication should be clear, identify the deficiencies or inaccuracies, guide the applicant on how to correct them, and state the mandatory deadline for completion.

4. It is particularly important in electronically delivered services that a request can be submitted even when incomplete. Automated systems that prevent submission because the request is incomplete should be excluded. In every case, even where clearly incomplete, the request should be allowed for electronic submission, and a confirmation of submission should be issued through the same means.

Legal basis: LGAP, Article 73(4) and Article 76.

6.2.4. Issue 4: Right of access to/Inspection of the file/documents

Introduction: Throughout the procedure, the party should have the right to: i) inspect the case file; ii) obtain copies of documents; and iii) obtain information on the status and progress of the procedure or on specific procedural actions taken by the administration. The administration should guarantee exercise of this right upon request and within five days, charging only for physical copies. In the case of one-stop points or electronic interaction, there is a tendency for this right to be restricted.

Principles: General assessment principles

1. The right to inspect/obtain documents should be guaranteed in AS procedures regardless of the use of electronic communication or single points of contact, whether electronic or physical.

2. Exercise of this right should be enabled within five (5) days of submission of the request.

3. Inspection may take place at the institution's premises or electronically where this is in the party's interest; in that case, the administration is obliged to provide the technical means for online inspection of the documents.

4. The administration conducting the procedure is obliged to provide the party with information on the status and progress of the procedure or on specific procedural actions it has taken. The information should be clear, complete, and understandable, provided without delay—that is, as quickly as possible in light of the specific information requested—and by any appropriate means.

5. The right is exercised free of charge. A fee may be charged only for physical reproduction of documents, meaning copies, and may cover only the reproduction cost.

6. Where interaction takes place through a portal, it should be possible to exercise this right electronically through the portal and also directly with the relevant body, either electronically or physically.

Legal basis: LGAP, Article 92.

6.2.5. Issue 5: Right to submit opinions, explanations or evidence

Introduction: Regardless of the use of electronic communication or a single point of contact, electronic or physical, the party should be guaranteed the right to submit explanations, opinions, and documents throughout the procedure. This right is an essential instrument enabling the party to influence the outcome of the administrative procedure by intervening with its opinions and clarifications, thereby obliging the body conducting the procedure genuinely to consider and assess them individually. It includes the right to present positions and explanations concerning the factual situation, the facts and circumstances of the case, and legal issues; to submit relevant evidence; and to make proposals throughout the procedure.

Principles: General assessment principles

1. In every service procedure and regardless of the communication channel, the administration should guarantee that the party can exercise this right effectively.

2. It should be possible to exercise this right in the same manner and through the same means as the initial application.

Legal basis: LGAP, Article 94.

6.2.6. Issue 6: Right to be heard

Introduction: Before taking an **unfavourable** final decision, such as refusing a request/application—that is, after completion of the administrative review and before finalising the decision—the administration is obliged to inform the party of the findings of the review, the possible outcome of the procedure, and the party's right to be heard regarding those findings and the expected outcome. The party has the right to express itself in writing, orally, or at a public hearing where applicable. This includes the right to submit explanations, comments, and/or additional evidence supporting them. The right to be heard is the essential element of "participation" in the administrative procedure. It improves decision-making quality, avoids administrative errors, and consequently increases the likelihood that the final decision will be accepted. This right may be lost where communication takes place through single points of contact or electronically.

Principles: General assessment principles

1. The right to be heard should be guaranteed before any **unfavourable** final decision is taken, including all cases in which the final decision will be adverse, such as refusal or incomplete acceptance of the party's request, meaning partial refusal. The specific cases in which this right is not guaranteed are expressly provided for in Article 96 of the LGAP.

2. The right to be heard should be guaranteed in every procedure/service regardless of the use of electronic communication or single points of contact, electronic or physical.

Restrictions are permitted only where justified by an overriding public interest and only within the exceptions set out in Article 96[3] (1.1)–(1.4) of the LGAP, interpreted strictly.

3. The administration should inform the party of the right to be heard in writing, including by electronic communication, or during a meeting.

4. The notification should be complete and contain all elements required under Article 95(2), in particular: i) the findings/results of the administrative review; ii) the possible outcome of the procedure; and iii) detailed information on how, including within what time limit, the right may be exercised in accordance with the LGAP. The time limit should be prescribed by legislation or, in its absence, should be a reasonable period set by the public body. Reasonableness should be assessed in relation to the complexity of the matter and the time the party specifically needs to prepare for the hearing.

5. The party may choose to express itself in writing or orally. Only where there are numerous parties may the public body choose—or legislation may prescribe—to hear the parties through a joint public hearing.

Legal basis: LGAP, Articles 95 (Right to Be Heard) and 96 (Exceptions to the Right to Be Heard).

6.2.7. Issue 7: Statement of reasons for the decision

Introduction: The administration's decision, particularly a refusal, should be properly reasoned. The reasoning should be clear and self-explanatory because it is intended to enable the party to understand the act and the reasons for refusal.

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[3] Article 96

Exceptions from the right to be heard

1. Decision may be rendered without granting the party the right to be heard, only when:

1.1. it is evident that the decision shall be in favour of the party or shall constitute a complete endorsement of its request j;

1.2. taking a final decision is urgent in order to protect a public interest, which may be harmed by any delay;

1.3. the party has already fully expressed, during the proceeding, its opinions on the result of the administrative review and expected result of the proceeding; or

1.4. the hearing of the party it is explicitly excluded by law.

Principles: General assessment principles

1. A statement of reasons for the administrative act, including a refusal, is mandatory regardless of the use of electronic communication or a single point of contact, electronic or physical. Omission of reasons is permitted only in the cases provided for in Article 49 of the LGAP.

2. The reasoning is mandatory and should be complete, clear, understandable, and self-explanatory.

3. The reasoning should be complete and include: i) a presentation of the party's request; ii) the factual situation on which the decision is based; iii) the decisive grounds; iv) an explanation of the legal basis and its application to the particular case; v) the grounds that led to rejection of the party's claims; and vi) an explanation of the exercise of discretion.

4. Particularly in electronic communication, there is often a tendency to provide brief reasoning such as "document X was not submitted" or "the conditions/criteria are not met". Such reasoning is insufficient. Under Article 48(2), insufficient, unclear, contradictory, or incomprehensible reasoning is equivalent to a complete absence of reasoning and is therefore treated as missing.

Legal basis: LGAP, Article 48.

6.2.8. Issue 8: Information on legal remedies

Introduction: The administration's decision, particularly a refusal, should contain complete information on the exercise of legal remedies—information on legal remedies or legal guidance—so that the applicant is able to appeal.

Principles: General assessment principles

1. Information on legal remedies is mandatory regardless of the use of electronic communication or a single point of contact, electronic or physical.

2. The information is mandatory and should be clear, understandable, and self-explanatory.

3. The information should be complete and include: i) the administrative body with which the appeal is lodged or the competent court; ii) the remedy available; iii) the form of the appeal; and iv) the time limit for appeal and the method of calculating it. It should be borne in mind that, under Article 127(3) of the LGAP, if the legal guidance is missing or insufficient, the appeal period is tripled and becomes three months.

Legal basis: LGAP, Article 126.

6.2.9. Issue 9: Manner and means of lodging an appeal

1. It is also advisable that appeals, at least administrative appeals, can be lodged online where the service, or at least the application for it, is provided or submitted online. In that case, the appeal-submission option should be simple and directly identifiable for each service.

2. As noted above, in addition to electronic submission, it should remain possible to lodge an appeal through traditional/physical means.

Legal basis: LGAP, Article 47(1.4), and Article 127(3).

ANNEXES

Annex No. 1: Risk Matrix by Consequences (Severity and Scope) and Probability (Likelihood of Non-Compliance/Risk Occurrence)

Consequences	Impossible	Possible	Highly Possible
High	Medium Risk	High Risk	High Risk
Medium	Low Risk	Medium Risk	High Risk
Low	Very Low Risk	Low Risk	Medium Risk
Negligible	Very Low Risk	Very Low Risk	Low Risk

Probability (of occurrence/non-compliance)

Source: OECD Best Practice Principles for Regulatory Policy, Licensing and Permitting

How to Manage Risks While Supporting Growth

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Annex No. 2: Proportionality Test

1. Suitability

A requirement or action is suitable if it can contribute to achieving the purpose for which it is undertaken. It is not necessary to select the most suitable possible measure. To satisfy the principle of proportionality, it is sufficient that the measure constitutes a step towards achieving the purpose or objective for which it was adopted. Selection of a completely unsuitable measure is unlawful.

2. Necessity

The principle of necessity is also known as the principle of the least restrictive means. It requires that, among several means suitable for achieving the objective of the law, only those should be selected which, in the case of restrictive measures such as orders or prohibitions, cause the least harm to the individual and, in the case of beneficial measures, cause the least loss to the community.

Application of this principle requires that the body have several suitable means available for achieving the purpose of the law. In the absence of such a choice, the question of using the least restrictive means does not arise.

3. Proportionality in the Narrow Sense

The principle of proportionality in the narrow sense is also known as the principle of appropriateness of the measure or the prohibition of excess. It requires a fair balance between the harm caused to the individual and the benefit to the community produced by an administrative act. It prohibits actions whose disadvantages for the individual exceed their benefits for the community.

In other words, the principle of appropriateness requires the administrative body not to exercise discretion according to its own preference. The body is required to strike a reasonable balance between the public interest and the individual interest and must refrain from adopting a measure that imposes a substantial burden on the individual’s existence.

Annex No. 3: Checklist for Assessing and Redesigning the Regulatory Instrument

Control question	Required standard	Risk if absent
Issue 1 — Legality of the Service		
Is the service provided for in primary legislation?	Every service should have a clear basis in a law adopted by the Assembly.	The service is unlawful and should not exist.
Is the service provided for clearly and specifically?	The law should clearly define every intervention, without leaving room for arbitrary subdivision by the administration.	Arbitrary creation of services and interference with economic or private freedom.
Issue 2 — Necessity/Need for the Service		
Does the service protect a public interest?	If the service does not protect a public interest, it should not exist.	Unjustified state intervention.
Does the public interest fall within a category that the law permits to be protected through a permitting scheme?	The service should relate to public health, public safety, the environment, or use of natural resources.	A service that is unlawful in purpose and function.
Is there a real and concrete risk to the public interest?	There should be a risk of significant seriousness/severity and a real probability of occurrence.	Unnecessary retention of a regulatory service.
Has a risk assessment been carried out on an objective basis?	The scope of impact, severity of consequences, and probability of non-compliance should be analysed.	Intuitive rather than evidence-based decision-making.
Can the public interest be protected by non-regulatory means?	If the risk can be addressed through self-regulation, awareness-raising, or market	Over-regulation and unnecessary administrative burden.

	mechanisms, the service is not necessary.	
Issue 3 — Suitability and Proportionality of the Instrument		
Is prior intervention (*ex-ante*) necessary?	Prior intervention should be used only where the risk must be managed before the activity begins.	Excessive use of prior authorisations.
Has the least restrictive means of addressing the risk been selected?	The least intrusive instrument sufficient to protect the public interest should be used.	Unnecessary burden on the citizen or business.
Is the form of the service proportionate to the level of risk?	The form of permitting should be proportionate to the seriousness of the risk.	An excessively burdensome instrument for a low risk.
Has the correct choice been made between a permit/licence, registration, and notification?	Permit/licence for medium or high risk; registration or notification for low risk.	An inappropriate regulatory scheme.
Issue 4 — Permitting Criteria: Legality		
Does the criterion derive from primary legislation?	The criteria should have a basis in primary legislation.	An arbitrary and unlawful criterion.
Is the criterion further developed in secondary legislation?	The criteria should be specified in secondary acts.	Normative uncertainty and unequal implementation.
Are the criteria preferably defined by a Government regulation rather than acts of a lower normative level?	A Government regulation is preferable; other acts should be used only for highly technical details.	Fragmentation and lack of clarity in regulation.
Issue 5 — Permitting Criteria: Proportionality		
Is the criterion suitable for protecting the public interest?	Every criterion should be directly linked to preventing or reducing a concrete risk.	A formal criterion with no genuine protective function.
Is the criterion necessary?	There should be no criteria that are merely "nice to have".	Increased compliance costs.
Has the least intrusive criterion among the alternatives been selected?	The criterion should achieve the objective with the lowest possible burden.	Unnecessary burden on the business or citizen.
Is the criterion connected with the specific logic of	Every criterion should form part of the risk-prevention mechanism.	A criterion disconnected from the purpose of the service.

protecting the public interest?		
Where public goods are concerned, are the principles of preservation, proper use, proportionality, and non-discrimination respected?	The criteria should aim at optimal and fair use of the public good.	Misuse or inadequate allocation of the public good.
Are competitive criteria used only on a transparent and predetermined basis?	Competition should be fair, transparent, and predictable.	Favouritism and arbitrariness.
Issue 6 — Permitting Criteria: Clarity		
Is the criterion expressed clearly and precisely?	Criteria should be written clearly, concisely, and precisely.	Subjective interpretation by the administration.
Is the criterion based on objective and measurable indicators?	Criteria should be measurable, simple, and understandable.	Lack of clarity and unequal implementation.
Issue 7 — Supporting or Evidentiary Documents		
Does the obligation to provide the document or information derive from legislation?	Documents should be provided for by law or secondary legislation, not invented on a case-by-case basis.	Arbitrary document requirements.
Is the principle respected that documents or data should not be requested if they are already held by the administration?	Existing documents should be obtained ex officio.	Unnecessary administrative burden.
Does the document prove a specific criterion or provide necessary information?	Every document should be directly linked to verification of a condition.	Requesting unnecessary documents.
Can the document be replaced by a self-declaration?	Wherever possible, documents from other entities should be replaced by self-declarations.	A procedure more cumbersome than necessary.
Is the document or information defined clearly and unambiguously?	The document should be clearly defined in form and content and linked to the relevant condition.	Lack of clarity and subjectivity.
Issue 8 — Validity or Periodicity		

Is the validity period or periodicity determined lawfully?	The period should be clearly prescribed in primary or secondary legislation, preferably in primary legislation.	Legal uncertainty and non-uniform practice.
As a rule, is the approval valid for an unlimited period?	Approval should be unlimited unless a different arrangement is justified.	Unnecessary reapplications and administrative burden.
Where validity is limited, is the period as long as continued compliance with the conditions allows?	The period should last as long as there is a reasonable basis for believing that the conditions continue to be met.	Unnecessary procedural frequency.
For permits covering a one-off action, is the period sufficient for normal completion of the activity?	The period should give the entity reasonable time to carry out the activity.	A non-functional procedure.
Is the reporting frequency as low as possible?	A periodic obligation should be imposed at the least burdensome possible interval.	Repeated administrative cost.
Issue 9 — Interrelated Administrative Conditionality		
Is the conditionality naturally connected with the logic of the service?	Conditionality should be permitted only where it has a direct and natural connection with the service itself.	Arbitrary and punitive conditionality.
Is the service made conditional on payment of fines or other unrelated obligations?	Such conditions should be eliminated.	Unjustified obstruction of the right to receive the service.
Is fulfilment of another unrelated obligation required in order to obtain the service?	Unrelated obligations should not be used as prerequisites.	Artificial increase in the administrative burden.

Annex No. 4: Checklist for Re-Engineering Administrative Service Procedures (Grouped by Issue)

Control question	Required standard	Risk if absent
Issue 1 — The Administrative procedure in General		
Is the procedure clearly regulated in legislation?	The procedure should be clear and structured.	Legal uncertainty.

Is the procedure simple and informal?	The procedure should be swift and user-friendly.	Administrative burden.
Is the competent institution clearly identified?	The competent institution should be clearly designated.	Conflict of competence.
Is the procedure designed for efficiency?	As few procedural steps as possible.	A slow procedure.
Has the proportionality of every procedural step been tested?	The steps should be proportionate.	An excessive procedure.
Have the different needs and circumstances of different applicant groups, including men, women, and vulnerable groups, been considered?	The procedure should be appropriate and equal for all users.	Lack of access.
Issue 2 — Information for the Citizen/Business		
Is the information on the procedure complete and clear?	Self-explanatory information.	Incorrect applications.
Does the information include the conditions and criteria?	The conditions should be published.	Legal uncertainty.
Does the information include the list of documents?	The documents should be clear.	Incomplete documentation.
Does the information identify the institutions involved in decision-making?	Institutional transparency.	Confusion.
Does the information include the decision-making time limits?	Clear time limits.	Delays.
Does the information include legal remedies?	Information on appeals.	Loss of rights.
Is the information published online?	Electronic transparency.	Lack of access.
Is the information accessible to all user groups?	Equal access to information.	Lack of access.
Is there a help desk or assistance for the applicant?	Active assistance from the administration.	An unclear procedure.
Issue 3 — Submission of the Application		
Can the request be submitted electronically?	Online submission.	An outdated procedure.
Can the request also be submitted physically?	Alternative channels.	Exclusion of citizens.

Are informal requests that identify the applicant and the request accepted?	Procedural informality.	Formalistic refusals.
Can the request be completed if it is incomplete?	The administration requests completion.	Unjustified refusal.
Does the electronic system block submission of incomplete requests?	The system should not block the application.	A technical barrier.
Issue 3 — Single Points of Contact		
Is the use of single points of contact, physical and electronic, promoted?	Use of single points of contact should be promoted as a principal means of delivering services.	Fragmented service delivery and difficulties for users.
Is a combination of physical and electronic points of contact permitted?	Combining physical and electronic channels should be possible and encouraged.	Restricted access and exclusion of certain user groups.
Is a combination of general and institution-specific points permitted?	It should be possible to combine general points with specialised institution-based points.	Lack of flexibility and efficiency in service delivery.
Is the citizen's/business's right to approach the competent administration directly preserved?	Single points of contact are optional and should not exclude direct communication with the administration.	Interference with the right of direct access and forced dependence on a single channel.
Issue 4 — The "Once-Only" Principle (OOP)		
Are documents requested that the administration already possesses?	Duplicate documents are not requested.	Administrative burden.
Are existing electronic registers used?	Use of databases.	Unnecessary documents.
Are data exchanged between institutions?	Interoperability.	A lengthy procedure.
Issue 5 — Responsible Official and Competences (Organisation of Decision-Making)		
Has the official responsible for the procedure been designated?	Clear responsibility.	Procedural confusion.
Is the same official responsible for both the review and the decision?	Full delegation	A slow procedure.
Is collegiate decision-making used only where necessary?	Exception to the rule	Risk of corruption

Is inter-institutional decision-making limited?	Exception	A complicated procedure.
Issue 6 — Time Limits for Service Procedures		
Is the time limit prescribed by legislation?	The time limit should be predetermined by law or secondary legislation.	Legal uncertainty and non-uniform implementation.
Does the time limit reflect the actual time required to handle a typical case?	The time limit should be based on the actual average processing time according to complexity.	Unrealistic time limits causing delays or rushed decision-making.
Does the administration decide within the deadline and as quickly as possible?	The administration should decide within the deadline and in the shortest possible time.	Indirect financial costs and losses for the citizen/business.
Are shorter time limits provided where the service affects vulnerable groups?	Time limits should avoid delays that may increase vulnerability.	Disproportionate consequences for certain user groups.
Issue 7 — Tacit Approval		
Control question	Required standard	Risk if absent
Is tacit approval applied as the general rule?	Tacit approval should apply to every service procedure under the LGAP.	Administrative delay and uncertainty for the applicant.
Do electronic systems enable application of tacit approval?	Systems should allow automatic issuance of the act/confirmation in the event of silence.	Practical failure of the principle and dependence on the administration's will.
Are exceptions to tacit approval justified by an overriding public interest?	Exceptions are permitted only for compelling reasons such as safety or public health.	Excessive use of exceptions and restriction of rights.
Are the exceptions provided for in primary legislation?	Exceptions should be expressly defined in primary legislation and interpreted narrowly.	Arbitrary exceptions and legal uncertainty.
In the absence of a statutory exception, does tacit approval apply automatically?	If the law does not expressly exclude it, the general rule of tacit approval applies.	Misinterpretation of the law and unjustified refusal of requests.
Where tacit approval applies automatically, are mechanisms	The administration should inform persons who are not	Failure to realise the parties' rights.

provided for informing the parties?	equally able to follow the procedure.	
Issue 8 — Fee for the Administrative procedure		
Is the fee provided for in primary legislation?	The fee should have a clear basis in primary legislation and a delegation provision for the secondary act.	An arbitrary and unlawful fee.
Does the fee cover only the administrative cost?	The fee should cover only the average cost of the procedure.	A hidden fiscal charge and unnecessary burden.
Has the need for the fee and the average cost been analysed?	It should be assessed whether the fee is necessary and what the actual cost is.	Disproportionate fees imposed without an economic basis.
Has the profile of service users been analysed, with particular attention to groups that may have more limited access to financial resources?	The fee should be assessed in relation to users' financial means.	Fees that may have an unequal impact on different user groups.

Annex No. 5: Checklist for Mitigating Digitalisation Risks through Harmonisation of Administrative Service Procedures with the LGAP (Procedural Standards for Protecting the Party)

Control question	Required standard	Risk if absent
Issue 1 — Submission of the Request		
Can the request also be submitted electronically?	Electronic submission should be possible whenever technically feasible.	The procedure becomes more costly and less efficient for citizens and businesses.
Is submission also possible through traditional means, such as in person, by post, or orally?	Electronic communication should not be the only mandatory means.	Access to the administration is restricted for certain categories of citizens.
Are common and accessible technologies used for electronic submission?	Electronic systems should use widely used technologies.	Technological barriers to accessing services are created.
Issue 2 — Content of the Request		
Is the request accepted if it identifies only the applicant and its subject matter?	The request should be considered valid if it is sufficiently clear.	Excessive formalism and unjustified refusals.
Are forms used only as support tools and not as an absolute condition?	Forms should help the applicant rather than obstruct them.	Requests are refused for formal reasons.
Do electronic forms allow narrative explanations to be added?	The applicant should be able to add further explanations.	The request cannot be fully understood.
Issue 3 — Incomplete Request		
Is the applicant given an opportunity to complete or clarify the request?	The administration should request completion before refusing it.	Premature refusal of requests.

Are the deficiencies and the method of correction communicated clearly?	The administration should identify deficiencies and provide guidance.	Procedural uncertainty for the applicant.
Do electronic systems allow incomplete requests to be submitted?	Submission should not be blocked by automated systems.	A technical barrier to exercising the right to apply.
Issue 4 — Right to Inspect the File		
Can the party inspect its file?	The party should have access to the file and documents.	Lack of procedural transparency.
Can the party obtain copies of documents?	The administration should provide copies upon request.	Restriction of the protection of the party's rights.
Can the party obtain information on the status of the procedure?	The administration should provide information on the progress of the procedure.	Uncertainty and lack of clarity for the applicant.
Issue 5 — Submission of Opinions and Evidence		
Can the party submit opinions and explanations during the procedure?	The party should be able to submit positions and evidence.	One-sided decision-making.
Can additional documents be submitted during the procedure?	The system should allow evidence to be submitted throughout the procedure.	The procedure becomes formal rather than substantive.
Issue 6 — Right to Be Heard		
Is the party informed before an unfavourable decision is taken?	The administration should inform the party of the findings and possible outcome.	Decision-making without the party's participation.
Is the party given an opportunity to submit comments and evidence?	The party should be able to express its views before the decision.	Risk of an incorrect decision.
Issue 7 — Statement of Reasons		

Is the decision reasoned?	Every administrative act should contain reasons.	An unclear and contestable decision.
Does the reasoning include the facts and legal basis?	The reasoning should include the facts, legal basis, and analysis.	Formal or insufficient reasoning.
Issue 8 — Information on Legal Remedies		
Does the decision contain legal guidance?	The decision should provide information on legal remedies.	The party is unable to protect its rights.
Does it include the competent authority and the appeal deadline?	The information should be complete and clear.	Legal uncertainty.
Issue 9 — Lodging an Appeal		
Can the appeal be lodged online?	Where the service is provided online, online appeal should also be permitted.	A difficult and incoherent appeal process.
Are traditional forms of lodging an appeal also available?	Traditional forms should also remain available.	Restricted access to administrative justice.