

Article

The Simplification of Procedures in Portuguese Administrative Law

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Abstract: The present paper intends to provide an overview and a critical assessment of the administrative simplification policies implemented in Portugal over the past 20+ years. Throughout these decades, the major instruments for administrative simplification have been: (i) Decree-Law n. 135/99, of 22 April; (ii) the Simplex programme; (iii) the 2015 new Code of Administrative Procedure and its 2021 amendment; and (iv) the COVID-19 legislation. Although Decree-Law n. 135/99 (i) was the first attempt to specifically address simplification, it was a very thin one. The Simplex programme (ii), created in 2006, was the first cross-sectoral robust policy of simplification; its motto is “the simpler the better” and it encompassed reforms in all government areas aiming at cutting red tape, promoting administrative efficiency, and making the citizens’ and the corporations’ lives easier when dealing with State. The new Code of Administrative Procedure (iii), approved in 2015, brought about specific normative solutions to simplify procedures, namely, prior communications, administrative assistance, procedural conferences, and the electronic one-stop shop. Finally, the COVID-19 legislation (iv) was made necessary by the COVID-19 pandemic and by the fact that public health restrictions made it impossible for citizens to establish personal contact with the administration in many cases.

Keywords: administrative simplification; administrative efficiency; administrative procedure; electronic procedure



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1. Introduction

The present paper intends to provide an overview and a critical assessment of the administrative simplification policies implemented in Portugal over the past 20+ years. With such purpose, it starts by presenting the conceptual framework of administrative simplification, which is followed by the analysis of the major instruments for administrative simplification approved throughout these two decades, i.e., (1) Decree-Law n. 135/99, of 22 April; (2) the Simplex programme; (3) the 2015 new Code of Administrative Procedure and its 2021 amendment; and finally (4) the COVID-19 legislation.

2. Conceptual Remarks

This paper deals with the simplification of administrative procedures and policies in Portugal related to this subject. However, other concepts are commonly used on similar matters such as *reduction of administrative burdens*, *better regulation*, *reduction of red tape*, and *context costs*. Such expressions do not necessarily mean the same as the *simplification of administrative procedures* but may partially include identical realities. The purpose of this paper is to define what should be understood as *simplification of administrative procedures* as well as to distinguish it from *the reduction of administrative burdens*, *better regulation*, *reduction of red tape*, and *reduction of context costs*, as this is critical to understand the scope of this article. However, one must bear in mind that such concepts are widely used to refer to the same problem and that the option to pick one instead of the other frequently depends on the country, on the legal system, or on the area of knowledge rather than on other circumstances such as an in-depth research analysis.

In general, *the simplification of administrative procedures* includes all the measures aimed to (i) speed up and streamline administrative procedures, (ii) to better manage complex cases where it is required to deal with many different administrative procedures (frequently before different public entities) to reach a specific purpose (e.g., to set up a new industrial facility where several different permits may be required), or (iii) to better manage several different administrative procedures with different interested parties but on the very same subject (e.g., hundreds of requests from different school teachers to receive a salary supplement due for overtime work based on the same grounds).

The simplification of administrative procedures is regularly targeted by employing new legislation/regulation and includes much more than the repeal of previous regulations or policies of deregulation (Portocarrero 2002). The following instruments of administrative simplification commonly require new bills with novel regulations on the subject matters: (i) the approval and set up of new one-stop shops to deliver better public services, (ii) the substitution of licenses for smarter administrative procedures or obligations (e.g., mere previous notices and prior communications), (iii) the obligation to use online administrative procedures, (iv) the elimination of paper-based certificates for online certificates and the obligation for public services to accept them, (v) the set-up of *procedural conferences*, (vi) the possibility to agree on *endoprocedural agreements* between public entities, etc. However, *the simplification of administrative procedures* may also be sought through the repeal of regulations. For example, the elimination of an unnecessary license may certainly be achieved through the repeal of the legislation where such a permit is set forth.

In addition, *the simplification of administrative procedures* does not always require actions (approval or repeal) connected with legislation or regulations. In fact, measures may be achieved by changing administrative practices. If a specific administrative body requires an unnecessary document to prove something that is already known by the public administration, its exhibition may be eliminated without new legislation or the repeal of previous legislation if it is not required by regulations.

Finally, *the simplification of administrative procedures* is directly related to services provided by the public administration or entities aimed to provide public services through administrative procedures and decisions. Thus, it does not include other measures which may bring benefits for persons or businesses such as the reduction of taxes or amendments to labour law.

The reduction of administrative burdens is also a widely used expression and it partially includes measures and instruments of *simplification of administrative procedures*. Administrative burdens may be defined as “*the cost to business or citizens of carrying out administrative activities that they would not carry out in the absence of regulation, but that they have to undertake in order to comply with it*” (Nielsen et al. 2017). Thus, the reduction of such burdens includes the simplification measures aimed to eliminate administrative interventions or requirements, to speed up and streamline administrative procedures, but not the actions to better manage complex administrative procedures and different administrative procedures with different interested parties on the same subject. It does not include all the instruments to simplify administrative procedures either but only the instruments aimed to reduce or eliminate administrative decisions, procedures, required information, etc. (e.g., the elimination of a license for reforestation or a document to demonstrate the absence of debts to tax authorities when a company appeals for a public support scheme). Therefore, *the simplification of administrative procedures* seems to be wider than *the reduction of administrative burdens*. However, it must be kept in mind that *the reduction of administrative burdens* is often used in a much wider sense, closer to *the simplification of administrative procedures*.

Red tape may be defined as the “*rules, regulations, and procedures that remain in force and entail a compliance burden for the organization but have no efficacy for the rules’ functional object*” (Kaufmann and Tummers 2017). It may thus include burdens of private companies and other organisations outside the public administration and is much closer to the reduction of administrative burdens than to the simplification of administrative procedures on what concerns its instruments. Although it includes the elimination of acts

and procedures (as well as rules and regulations), it does not seem to be connected to other instruments of simplification such as rules aimed to deal with complex administrative procedures or several procedures where parties have the same interest/purpose. Finally, it includes measures not necessarily related to administrative procedures, such as the elimination of laws and regulations not necessarily linked to administrative procedures (e.g., formal requirements of a private provider of energy to a private car manufacturer).

Better regulation is defined by the European Commission as "... designing EU policies and laws so that they achieve their objectives at minimum cost. Better regulation is not about regulating or deregulating. It is a way of working to ensure that political decisions are prepared in an open, transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders. ... acting only where necessary at EU level and in a way that does not go beyond what is needed to ... Better regulation applies to new and to existing initiatives. Through evaluations and other means, the Commission is constantly collecting and analysing information about the performance of the Union's policies. The aim is to ensure that objectives continue to be met without imposing unnecessary costs on society. As such, any proposal to revise existing legislation must look at whether there is potential to simplify and to reduce regulatory costs but without undermining the aims or benefits of the legislation" (European Commission 2017).

The *simplification of administrative procedures* and *better regulation* policies certainly have similarities, but they do not exactly coincide. *Better regulation* is wider on what concerns the type of measures included in its policies and narrower in terms of scope. Indeed, on the one hand, it is wider because it not only includes instruments to speed up procedures, deal with complex administrative procedures and manage administrative procedures with similarities, but also other instruments aimed to create a better regulation environment. That is the case, e.g., of (i) the repeal of unnecessary legislation not necessarily related to administrative procedures, (ii) the adoption of ex ante and ex post legislative assessments, (iii) the approval of measures aimed to enhance the quality of legislation, such as consultations of stakeholders, (iv) measures aimed at improving transparency and clarity of legislation regarding the way the legislation is drafted or publication in national gazettes, etc. On the other hand, it is narrower because it only refers to legislation and regulations, thereby not including the simplification of administrative practices in which new legislation/regulations or the repeal of legislation/regulations is required.

Finally, the *reduction of context costs* ("*custos de context*") should also be considered, although this is usually a term used in political speech rather than in research analysis. It may include the *simplification of administrative procedures* and *better regulation* policies, but it is broader because it also includes other measures not related to administrative acts and procedures or aimed at improving the regulatory environment. In fact, *context costs* may arise from different sources such as the price of energy, labour regulations, taxes, customs, the length of courts' procedures and, therefore, measures for the reduction of *context costs* may go well beyond administrative procedures and legislation.

In light of the above, this article does not deal with subjects not included in the sense of *simplification of administrative procedures*. For instance, it is not its purpose to refer to relevant *better regulation* policies in Portugal, such as *Legislar Melhor* (2005–2009), *Simplegis* (2009–2011), and the new edition of *Legislar Melhor* (2015 to the present date),¹ or to policies aimed at streamlining procedures before courts² or EU *better regulation* policies.³

3. Decree-Law n. 135/99, of 22 April

Decree-Law n. 135/99, of 22 April, was the first attempt to specifically address simplification. In its own terms, it is aimed at "*defining the general principles of action that public administration services and bodies must obey in their relations with citizens, as well as brings together the rules in force in the context of administrative modernisation in a systematised manner*". It is set to reduce anachronic and bureaucratic methods, promote teamwork and cross-sectoral collaboration, facilitate access to public services and its usability in a transparent manner by adopting simple, effective, innovative, and electronic procedures, and envisages

citizens as clients of public services (Article 2 of Decree-Law n. 135/99, of 22 April). The following measures, which were contained therein, are based on its original 1999 version:

1. The right of information of public service users in relation to the procedures in which they are interested;⁴
2. The promotion of ex ante and concomitant regulatory impact assessment of all new bills approving new procedures, modifying or discontinuing existing ones;
3. The possibility of public services proposing the tacit approval of certain types of administrative acts to the competent bodies;⁵
4. The duty to have continuous opening hours, without lunch break closure;
5. Instructions on the organisation of the reception and service areas of public services, as well as priorities in serving citizens in public services;
6. The duty to set up and manage telephone hotlines;
7. The implementation of user and mail forwarding services to the competent services;
8. The duty to make available to their users the sealed forms and vouchers necessary for the instruction of their files in the same place (one-stop-shop);
9. The summoning and notification of citizens only if other procedures have been exhausted to resolve the issues without inconveniencing, wasting time, and expense caused by the displacement of those concerned;
10. The use of simple, clear, concise, and meaningful language, without acronyms, technical terms, or reverential or intimidating expressions;
11. The drafts and application forms must only contain indispensable data, respect the principles and guidelines of standardisation, and include simple and sufficient instructions;
12. The use of the most economical means in written communications;
13. The duty to make available an email address for contact, with e-correspondence having the same value as correspondence exchanged in paper;
14. The use of the same certificate or attestation being valid for multiple purposes until its expiry date;
15. The encouragement of the promotion of electronic means of payment;
16. The exhibition of the original version of documents has been rendered unnecessary in the instruction of administrative procedures unless otherwise specified;
17. A system to provide positive and negative feedback and evaluation from public services users and workers was implemented;
18. An interdepartmental system of administrative information for users of public services was created.

Subsequent amendments to the Decree-Law n. 135/99, of 22 April,⁶ introduced the following measures:

1. The simple photocopy of an authentic or authenticated document as sufficient for the instruction of administrative procedures;
2. The possibility of adopting forms or templates made available electronically;
3. The generalisation of the prioritisation of attending users by appointment;
4. The greater use of interoperability mechanisms to relieve the user of the need to process requests or send documents with elements already in the possession or known to other public administration services and bodies;
5. The dematerialisation of the management system of compliments, suggestions, and complaints to the services and bodies of the public administration;
6. The provision of mechanisms for the evaluation of the public service locations and hotlines by users;
7. The creation of the Citizens' Hotline, with which the other national public telephone hotlines may be affiliated, so as to enable citizens to have better access to the public services they wish to consult, using a short and easily memorable number;

8. The simplification of the paper version of the complaints book applicable to the public sector, reducing the number of copies and the respective processing and, on the other hand, the extension of the use of platforms that support the electronic version of the book;
9. The simplification of procedures for issuing, delivering, and using the citizen card for homeless people.

As it is evident from these lists, the measures are ad hoc in nature and lack a holistic and systematic approach. Being the first bill ever specifically tackling these issues, et pour cause, its contribution to simplification is a very thin one. In addition, several measures are not necessarily related to the *simplification of administrative procedures* (e.g., ex ante regulatory impact assessments).

With a Code of Administrative Procedure and a law on access to administrative documents in force at the time of its approval, it is hard to understand the reason why it was approved separately.⁷ Still, regardless of its flaws, the truth is that it laid the ground for second generation simplification policies.

4. The 'Simplex' Programme and Other Legal Regimes

The Simplex programme, created in 2006, was the first cross-sectoral robust policy of simplification. Its motto was "*the simpler the better*", and it encompassed reforms in practically all government areas to cut red tape, promote administrative efficiency, and make the citizens' and the corporations' lives easier when dealing with State. This program was launched with ten major simplification measures in January 2006, after two other relevant measures were adopted a few months before. Later, in March 2006, the first full Simplex programme was launched with 333 measures.

Under this programme different types of measures were approved, such as the following:

1. One-stop shops to deliver fully integrated public services for citizens and companies;
2. Elimination of unnecessary licenses, permits, authorisations, acts, and administrative procedures;
3. New online and electronic procedures;
4. Elimination of paper-based certificates;
5. Elimination of identification documents by including its information in new fully integrated documents;
6. Organisational and internal measures aimed to better manage public services and procedures.

The two first simplification measures approved in 2015 before Simplex programme were (i) a fully integrated one-stop shop for the incorporation of companies which allowed to set up businesses within an hour (the "*Empresa na Hora*" or *On the Spot Firm*)⁸ and (ii) a new integrated document regarding vehicles (the "*Documento Único Automóvel*" or *Single Document for Vehicles*),⁹ which replaced two documents previously required: a document regarding the property of the vehicle (the "*título de registo de propriedade*") issued by the registration offices of the Ministry of Justice and another document aimed to describe its characteristics (the "*livrete*") issued by the ministry entitled to deal with vehicle type-approvals).

The "*Empresa na Hora*" was provided by the commercial registration offices and eliminated the requirement of a notary deed to set up companies as well as registration in other public services (e.g., tax authorities) because all the communications to such departments were made through this one-stop shop. After a few months, this service was spread through the entire country, the time to integrate a company was reduced to less than one hour and the World Bank ranked Portugal as "top reformer" for starting businesses in its *Doing Business* annual report of 2007 due to this measure.¹⁰

The "*Documento Único Automóvel*" project was not only aimed at foreseeing the issuance of a single document. It also involved other measures aimed to provide a better service of the offices where such documents were requested and issued, a speedier procedure for its

issuance and the possibility to request online not only the said document but also all the other possible requests connected with the document. Mandatory territorial competence for the issuance of the document and request for registration services related to the document (e.g., mortgages) were abolished and all registration offices within the country started to accept such requests instead of just a single one, which allowed to provide a swifter service for millions of citizens and companies. In addition, competence for registration acts was granted to all officers of the registration offices instead of limiting such competence to the head of the registration office, thus allowing more officers to provide the service when there were no complex issues to address. Lastly, the decree-law which approved the “*Document Único Automóvel*” also provided for online services which were established later on and allowed for a smarter public service without physical displacement to the offices and uncrowded services.

Such measures and their outcome inspired the Government to approve a full programme for simplification of administrative procedures: the Simplex, which remains in force until the present date.

The first ten Simplex measures were presented by the Prime Minister to the Parliament on 27 January 2006 and they were (i) the elimination of mandatory notary deeds for the registration acts concerning companies, (ii) the elimination of physical accounting books and their certification in registration offices, (iii) the substitution of four different mandatory types of communication regarding companies’ accounts by a single unified online communication, (iv) the registration of trademarks within an hour, (v) the streamlining of the procedure for companies’ mergers and spinoffs, (vi) an on-the-spot procedure for the dissolution of companies, (vii) the possibility of registration offices, lawyers, paralegals/“*solicitadores*” and chambers of commerce to authenticate documents and recognise the in-person signing of documents instead of reserving such act only to notaries, (viii) a single annual delivery of companies’ information to the welfare services, (ix) the elimination of the requirement of delivery of a certification of absence of tax and welfare debts and its substitution by an electronic procedure to check it, and (x) the elimination of a mandatory registration of industrial companies before the public departments entitled to deal with registration of economic activities.¹¹

Afterwards, the first full Simplex programme was presented in March 2006 with 333 further measures. Since then, new Simplex measures have been regularly adopted and the programme is frequently updated with new measures.¹²

Since 2006, Simplex has provided for relevant measures aimed at simplifying administrative procedures and reducing red tape and administrative burdens such as detailed below.

4.1. One-Stop Shops to Deliver Fully Integrated Public Services for Citizens and Companies

The provision of public services by a single contact point (one-stop shop) was an important Simplex target. This would allow a smarter and swifter service without the need to deal with several different services and avoid time-consuming activities. It would also create more ambitious services in public departments and therefore motivate public officers by the public recognition of such new services.

Simplex has delivered new one-stop shops for the incorporation of companies (“*Empresa na Hora*”),¹³ the acquisition of real estate (“*Casa Pronta*”),¹⁴ the registration of newborn babies (“*Nascer Cidadão*”),¹⁵ the on-the-spot service to create a branch of a company,¹⁶ etc.

Usually, these services are delivered by public officers in a single spot open to the public, where public deeds before notaries are not required, and they all provide the required communication with other public departments. For instance, the payment of the transaction tax for the acquisition of a new house is held before the registration officer of the one-stop shop as well as the contract, the registration of the new owner, the elimination of the registration of the old owner, the registration of the mortgage in favour of the bank who provided the loan for the acquisition, and the elimination of the past mortgage in favour of the bank who provided the loan to the seller.

Such services do not necessarily need to be provided in public registration offices or in the offices of the officers who provide them. For example, the “*Nascer Cidadão*” is a service for the registration of newborns which is provided in hospitals where they are born, not in registration offices.

4.2. Elimination of Unnecessary Licenses, Permits, Authorisations, Acts, and Streamlining of Administrative Procedures

The elimination of unnecessary acts and steps and the streamline of administrative procedures allow speedier decisions and focus public officers in added value decisions, thus avoiding spending too much time with time-consuming procedures.

Simplex has provided for dozens of eliminations of licenses, authorisations, permits, and administrative procedures. It has also downgraded licensing requirements to simpler requirements such as mere prior notices in which the citizen or the company is only required to send a notice warning that has started or intends to start an activity. The following are examples of elimination of unnecessary acts and procedures under this programme:

1. Elimination of mandatory notary deeds for companies' acts (e.g., incorporation of a company, amendment of articles of association, change of the board, etc.);¹⁷
2. Elimination of mandatory physical account books and their mandatory certification before registration offices;¹⁸
3. Elimination of mandatory notary deeds for acts regarding the acquisition of real estate, allowing the purchase with no further requirement when using the one-stop shop “*Casa Pronta*” or with a simple contract authenticated before a lawyer, paralegal/“*solicitador*”, registration office, notary, or chamber of commerce;¹⁹
4. Substitution of the publication of private companies' acts in the Official Journal/“*Diário da República*” and its cost by an online publication free of charge in a registration website automatically performed when the registration of such acts has to be carried out before registration offices;²⁰
5. Elimination of the industrial license for industrial facilities²¹ and streamlining of industrial licensing procedures;²²
6. Elimination of licenses and authorization for activities under the *Zero Licensing/“Licenciamento Zero”* project, such as the elimination of the license for restaurants and its substitution for a mere prior notice, the elimination of the licenses for agencies selling tickets for shows in public venues, and the elimination of licensing for outdoor advertising in certain cases;^{23,24}
7. Streamlining procedures related to restaurants by creating a joint procedure of mere prior notice for procedures regarding the occupation of public spaces for terraces, awnings, advertisement of restaurants, etc.;²⁵
8. Restriction and elimination of the use of licenses and authorisations for commercial activities and its substitution by mere prior notices under the transposition of the EU Directive 2006/123/CE on services in the internal market;²⁶
9. Elimination of licenses and authorisation for commercial activities and substitution by mere prior notices;²⁷
10. Approval of the single environmental license title, which includes all the environmental licenses required for a project in a single electronic document;²⁸
11. Elimination of several procedures before industrial property offices such as deadlines, presentation of periodic statements, documents on what concerns the registration of patents and trademarks;²⁹
12. Elimination of the requirement of birth certificates and the publication of marriage notices, thus allowing to speed up the procedure for marriages;³⁰
13. Streamlining the divorce procedure with the possibility of dividing the property of spouses in the very same procedure;³¹

14. Elimination of requirements to present documents or certificates when the public administration already has such information.³²

4.3. Online and Electronic Procedures

The availability of online public services provides advantages, both for the users and public services. On the one hand, it allows the provision of the service without the need for displacement, thus bringing more comfortable and costless service for the users. On the other hand, it also amounts to quicker services because it allows the elimination of paper-based steps of procedures. It further adds transparency to the public service because the request may easily be tracked. Finally, it additionally helps to better manage public services because when a request is presented online it may be automatically distributed to the service or officer with availability to take care of it and easily followed to avoid delays.

Simplex has also provided for several new online procedures much before the 2015 CPA. Under these procedures the individual or the company was allowed to submit claims, present documents, check the status of the procedure, and receive notices by electronic means. This was the case of (i) the online commercial registration,³³ (ii) the online incorporation of companies,³⁴ (iii) the online land registration,³⁵ (iii) the online civil registration,³⁶ (iv) the online registration of industrial property rights such as trademarks and patents, (v) online welfare services, (vi) online tax services, (vii) online driving license requests, (viii) the online provision of companies' accounts in a single internet point ("*Informação Empresarial Unificada*" / *Unified Information over Companies*), thus eliminating the obligation to provide such information to four different public entities, some of them through paper-based procedures,³⁷ etc.

4.4. Elimination of Identification Documents by Including Its Information in New Fully Integrated Documents

Single identification documents provide advantages for the users for the simple fact that they eliminate unnecessary cards and the obligation to get and carry them. In addition, their issuance usually brings important reforms on the way the service is provided to allow for smarter services.

Simplex has provided new identification documents aimed to integrate information of several different other documents as well as make them unnecessary.

One of the major examples is the *Citizen's Card* / "*Cartão de Cidadão*", which integrates the civil identification card/number, the tax ID card/number, the welfare services' number and the health services number.³⁸ This has also led to a whole new way of providing the service for the renewal of the card which may be held in hundreds of registration offices and even requested online in certain cases.

The above identified *Single Document for Vehicles* / "*Documento Único Automóvel*"—which, as mentioned, replaced two documents and also involved a new way of providing the service through unified services in hundreds of offices where any request concerning the vehicle could be submitted—is another relevant example.³⁹

4.5. Elimination of Paper-Based Certificates

One of the Simplex goals was to reduce the time-consuming work of public services with bureaucratic activities such as the issuance of paper-based certifications. This has a positive effect on the user for several reasons. First, it avoids the need to constantly ask for new versions of paper certifications any time one needs them, therefore saving time and displacements. Second, it usually enables more accurate information on the matter to be certified because such paper-based certifications are commonly substituted by access to data by electronic means which is constantly being updated, instead of a paper-based certification which may be outdated right after its issuance. Finally, it allows public services to be focused on the provision of added-value services for citizens and companies.

Simplex played an important role in eliminating paper-based certification by providing:

1. Permanent online certificates for commercial, land, vehicle, and civil registration,⁴⁰ thus avoiding the issuance of paper-based certifications. A code is provided to the user and she can access constantly updated registration information through the internet as well as deliver such code to any public or private entity who requests proof of such information;
2. A bilingual companies' registration in Portuguese and English was adopted and therefore permanent online certifications for companies' registration may be issued both in Portuguese and English;⁴¹
3. Public services cannot request information which they already have, if the individual or the company authorises or asks the service to access such information;⁴²
4. Registration offices cannot request information already available in registration files;⁴³
5. The presentation of several paper-based certifications in administrative procedures was eliminated and substituted by access to data basis, for instance for the issuance of the *Citizen's Card*.⁴⁴

4.6. Organisational and Internal Measures Aimed to Better Manage and Provide Quality Public Services and Procedures

Organisational and internal measures aimed to better manage public services can streamline administrative procedures and provide better services. The Simplex programme approved several measures of this kind, such as the following:

1. The creation of new venues where a full range of public services is available for citizens using the so-called "*Lojas do Cidadão*" / *Citizens' shops*,
2. The elimination of territorial competence of commercial registration offices,⁴⁵ land registration offices,⁴⁶ civil registration offices,⁴⁷ and vehicle registration offices,⁴⁸ which enabled citizens and companies to present requests in the more convenient service taking into account their ability to provide quality and speedy services instead of being obliged to submit the request in just one; and
3. The allocation of competence to approve registration acts to mere officers, instead of limiting such competence to the head of the registration office—which was often the reason for unnecessary delays in simple issues in which there was no need for a superior intervention.⁴⁹

Finally, Simplex has also provided for other innovative measures, such as the legal framework for the "*Direito ao Desafio*" / *The Right to Challenge*.⁵⁰ Under this legal framework, other legal frameworks listed in its annex may be suspended for experimental projects presented by individuals, companies or the public administration. In practice, it enables the test of innovative solutions in a deregulated environment (what is usually called a "regulatory sandbox" approach).⁵¹

5. The 2015 Code of Administrative Procedure

The first Portuguese Code of Administrative Procedure (CPA) was enacted in 1991 and revised only once, in 1996. Until 2015, the Code was constantly applicable, regulating all the public administration's activity. It was only in that year, after a long period which comprised preparatory works and broad public debates, that a new CPA was enacted. From the 1990s to the 2010s, technology evolved immensely, and day-to-day public bodies' activity was in desperate need of update. Therefore, in 2015 one of the major goals with the enactment of the new CPA was administrative simplification.

The main simplification solutions that were pointed as such in the new CPA will be presented in the following paragraph and an overall assessment, as well as some considerations regarding specific solutions will be presented in the paragraph after.

5.1. Solutions of Simplification

There were ten main simplification solutions presented in the new CPA: (1) mere prior notices and previous communications, (2) language of the procedure, (3) ex officio referral to the competent body, (4) direction of the procedure, (5) administrative support, (6) tacit administrative acts of approval, (7) procedural conferences, (8) endoprocedural agreements, (9) notifications, and (10) electronic administration.

Regarding *mere prior notices and previous communications* (1), the law may foresee that the production of certain legal-administrative effects and their benefit by the interested party does not depend on the emission of an administrative act following a procedure (Article 134 of CPA). Instead, those effects may immediately result from the mere prior notice by the interested party of the fulfilment of the corresponding legal and regulation prerequisites. This mechanism is a mere previous communication and allows for a speedy, simple, and efficient outcome (Miranda 2020). Adding to the mere previous communication, it is possible to have a previous communication with a deadline where it is determined that the prior notice given by the interested party only produces the desired effects if the competent body does not state otherwise within a certain period of time.⁵²

Through mere prior notices and previous communications, there is therefore no need for the public administration to issue an administrative act. It should be noted, however, that no tacit act is fictionalised. In fact, the CPA clearly states that the absence of a decision by the competent administrative body does not give rise to a positive tacit act. Instead, it entitles the interested party to undertake the intended activity without prejudice to the supervisory powers of the Administration and to the possibility of the latter using the appropriate means to defend legality (Article 134 (3) of CPA).

Previous communications were not a complete novelty in the Portuguese Administrative Law. Indeed, Decree-Law 48/2011 (zero licensing) and Decree-Law 555/99 (legal regime of urbanisation and building) already used prior notices as a means for simplification and speed as well as in other cases before such laws (Assis Raimundo et al. 2020).

Where the *language of the procedure* is concerned (2), the CPA clearly states that the language of the administrative procedure is Portuguese (Article 54 of CPA). At first glance, this novelty has the simplification advantage of clearly stating what is the language of the administrative procedure. Therefore, it would dissipate any doubts that could emerge in that respect. However, as it will be expounded in the next section, there are some negative consequences resulting from this.

Concerning the *ex officio referral to the competent body* (3), whenever a person wishing to interact with the public administration—be it requiring, petitioning, claiming, or appealing something—directs her application to an incompetent administrative body, the latter is obliged to refer the presented document to the competent administrative body (Article 41 of CPA). This particular novelty results in the public administration acting as a whole, requiring it to identify the competent administrative body and refer the procedure to it (Silveira 2020b). This solution was deemed as excessive by some scholars, since it disregards whether the individual's mistake presenting his claim at the wrong administrative body is excusable or not (Sérvulo Correia 2016a). However, on the other side, one may consider that the public administration has the duty to be organised in such way that claims presented to incompetent entities should be swiftly redirected to the correct administrative body. In addition, if someone intentionally presents a claim to an incompetent body, the general rule of the abuse of right will prevent her to get any benefit. Thus, we do not see such a negative side on this provision.

About the *direction of the procedure* (4), it is now established as a rule that the competent administrative body delegates its competency of procedural direction in its hierarchical inferiors (Article 55 of CPA). Although not new, this norm protects a good administrative practice. Indeed, by delegating the direction of the procedure, the CPA is determining the public administration to function in a non-centralised fashion (Silveira 2020b), thereby creating the necessary conditions to increase its efficiency (Carvalho 2016). It is not a solution that directly increases simplification in the public administration's activity, but it

does have some positive repercussions in this regard. Firstly, it facilitates the knowledge of how the public administration acts, since it is a practice that is now legally binding, and also because the identity of the competent body must be notified to the participants in the procedure. Secondly, it harmonises the activity of the public administration. Thirdly, the practice itself increases simplification as the non-centralised fashion of acting tends to promote better decisions.

In respect of *administrative support* (5), the CPA establishes an imposition directed to the competent administrative body to require support of any other administrative body when (i) the best knowledge of the relevant matter requires an investigation which the competent administrative body is not equipped for, (ii) only the administrative body to which the request is addressed has in its possession documents or data whose the knowledge is necessary for the preparation of the decision, or (iii) the procedure instruction requires the intervention of personnel or the use of technical means that are not available to the administrative body competent for the final decision (Lanceiro 2020). The obligation to require administrative support will emerge not only by the administrative body's own initiative, but also when the body responsible for the procedure direction proposes it, or whenever the participants in the procedures require it (Article 66 of CPA).

One of the ways in which administrative support is materialised is through the communication of documents or data between administrative bodies (Article 66 (3) of CPA). The sharing of this type of information is subject to the rules regarding access to administrative documents set out in Law n. 26/2006 (Fidalgo de Freitas 2021).

Administrative support is based on the German *Amtshilfe* on the *Verwaltungsverfahrensgesetz* (Sérvulo Correia et al. 2010). It is an organisational and internal subprocedure; since it amounts to promote articulation between administrative bodies, it is concluded before the final decision, and it occurs within the main procedure (Sérvulo Correia 2016b).

However, this legal instrument may present serious risks for the simplification of administrative procedures. In fact, it is drafted as a duty of the public administration and therefore it may lead to longer administrative procedures and more bureaucratic administrative action not necessarily directed to respond to the request of the interested parties. In addition, it may be used in cases where there is no need for an intervention of a different administrative body when the entity entitled to decide wants to postpone its decision or is faced with a delicate or complex issue. Finally, these provisions seem to be just common sense on the management of public services and administrative procedures and therefore it is submitted that they are of any added value to be set on a law or in CPA (Silveira 2020b).

With reference to *tacit administrative acts of approval* (6), the CPA maintained the tacit administrative acts of approval, or plainly positive administrative tacit acts, as an exception only to occur when the law specifically determines it (Article 130 of CPA).⁵³ In addition to the necessity of being expressly posited that a positive administrative tacit act may occur, four cumulative conditions must be verified: (a) an application or request, that is, a claim must be presented by someone; (b) the administrative body at which the request was directed must be legally competent; (c) the presentation of the request by the applicant must be timely; and (d) the term which is set by law for the decision to be issued must have elapsed (Assis Raimundo et al. 2020). Indeed, reducing tacit acts solutions is a welcoming political option when it is accompanied by other solutions relating to administrative silence, such as previous communications (Assis Raimundo et al. 2020).

As for *procedural conferences* (7), they are intended for the joint or combined exercise of various administrative bodies' competencies (Articles 77 ff. of CPA). If those competencies are to be exercised jointly, the procedural conference is dubbed deliberative. On the other hand, if those competencies are to be exercised individually but at the same time, the procedural conference is entitled coordinative (Aroso de Almeida 2021; Freitas do Amaral 2018; Serrão 2020).

The legal act establishing the possibility of holding procedural conferences (a) determines the competent administrative body to convene and preside over the conferences, (b) binds the other participating administrative bodies to the observance of the duties imposed upon them in the procedural conference regime, (c) enables the participating administrative bodies to delegate to their members, in the case of collegiate bodies, or to agents dependent upon them, the necessary powers for the operation of the procedural conferences, and (d) entitles the administrative bodies participating in a deliberative conference to have joint competence to deliberate through a single act of complex content, which would correspond to the isolated practice of administrative acts by each of them.

Each procedural conference is held in relation to a specific situation. The deadline for holding a procedural conference is 60 days, extendable for a further 30 days. During that period, the deadlines for the conclusion of the procedures in which the various acts involved should be carried out are suspended. At the end of the procedural conference, the presiding administrative body shall draw up a report on the successive stages of the conference and, where appropriate, the decision-making act or acts taken at the conference, with the respective grounds, and the other acts taken autonomously by each participating administrative body.

In 2020, due to the COVID-19 pandemic, Law n. 72/2020, of 16 November, was enacted with the purpose to accelerate administrative activity. A temporary regime was created which included the obligation to hold a procedural conference in procedures where opinions or other types of pronouncements were issued by several entities or in other procedures where the degree of complexity justified it. This type of procedural conference was chaired and convened by the administrative body competent to issue the last administrative act necessary to satisfy the claim made. The summons should be sent within 15 days of the beginning of the procedure, at least seven days before the date of the meeting. Together with the summons, all the documentation necessary for consideration by the participating entities should be sent. Ensuring coherence with the CPA and the solution regarding ex officio referral to the competent body, this transitional regime also provided for that same obligation in the case of the presentation of a request to another participating body without competence to issue the last administrative act. The administrative bodies with competence to perform acts in the procedure or to issue binding opinions were the entities participating in these procedural conferences with voting rights. Decisions were taken by an absolute majority of votes of the members of the bodies present. For the specific situation of procedures including bodies of the direct and indirect administration of the State, as well as local administration bodies, procedural conferences were to be held periodically, within the scope of intermunicipal communities and metropolitan areas. This regime was in force until 30 June 2021.

Either way, procedural conferences were not entirely new in Portuguese Administrative Law. Indeed, a preliminary version of this mechanism can be found in Decree-Law n. 169/2012 (responsible industry system), and a more consolidated version of procedural conferences, which was the inspiration for the 2015 CPA, was included in 2014 in the legal regime of urbanisation and building. In addition, some scholars sustained before the 2015 CPA that procedural conferences could be accepted under general administrative law (and therefore public administration was authorised to use them) even without a specific provision in CPA or in other laws (Portocarrero 2002).

Relating to *endoprocedural agreements* (8), the CPA allows for the competent administrative body and the interested parties to agree, in writing, on the terms of the procedure (Article 57 of CPA). These agreements may only occur in the context of procedural discretion. These agreements bring the public administration and private individuals closer when it comes to determining particular aspects of the administrative procedure or even the final decision (Aroso de Almeida 2021; Loureiro 2020).

Endoprocedural agreements are a type of agreements within the administrative procedure. The CPA acknowledges two categories of endoprocedural agreements. The first one is the agreement on the terms of the procedure, by which the parties may, for example,

determine the that oral hearings are to be organised for the purposes of adversarial proceedings between the parties seeking a decision and those opposing it (Sérvulo Correia 2016c). The second one is the agreement on content of the administrative act to be issued at the end of the procedure. It is not an agreement substituting the final administrative act; it is an agreement by which the parties commit themselves to a specific content of the administrative act (Sérvulo Correia 2016c).

In reference to *notifications* (9), the CPA regulates communications between the public administration and private individuals via electronic means (Article 63 of CPA). As a result of this regime, the CPA clarified that notifications can be made by electronic means (Article 112 of CPA), although it simultaneously required twenty-five working days for such notifications to be effective if the email box or electronic account was not accessed before. Additionally, the CPA also allowed for a public announcement instead of individual notifications when the notifying parties were greater than fifty. As it will be seen below, these deadlines and limits were reduced in the CPA's 2021 amendment.

With respect to *electronic administration* (10), it is one of the biggest novelties of the 2015 CPA (Freitas do Amaral 2018; Prata Roque 2020). In fact, the word 'electronic' appears sixty-eight times through the normative text, as opposed to none in the text of the previous CPA. The word emerges in nuclear articles, but also in little but important details on several regimes:

1. Firstly, the CPA establishes the principle of electronic administration, which prescribes that administrative bodies shall use electronic means in the performance of their activities in order to promote administrative efficiency and transparency and proximity to the parties concerned. These electronic means shall guarantee the availability, access, integrity, authenticity, confidentiality, storage, and security of information (Article 14 of CPA);
2. Secondly, the CPA institutes a regime for electronic means utilisation, clearly stating that electronic means are the preferable option for instructing administrative procedures (Article 61 of CPA);
3. Thirdly, the CPA creates the electronic business spot, that is, a regime regulating any technological infrastructure through which an administrative procedure is conducted (França Jardim and Raimundo 2020);
4. Fourthly, as stated *supra* in (9), the CPA regulates communications between the public administration and private individuals via electronic means;
5. Fifthly, the CPA updates its regime of private initiative of the procedure to include electronic means (Article 102 ff. of CPA);
6. Sixth and finally, the CPA updates several details of different regimes in order to include the possibility of electronic means. This is the case with extraordinary meetings in collegial bodies (Article 25 of CPA), with diligences within the administrative procedure with regards to the authentication of the participants (Article 64 of CPA), with transmitting information within electronic procedures (Article 82 of CPA), with the emission of certificates, reproductions, or declarations within electronic procedures (Article 84 of CPA), with time extensions regarding electronic procedures (Article 88 of CPA), and with the authentication of the electronic final decision via an electronic signature (Article 94 of CPA).

In any case, it should be kept in mind that electronic procedures were widely accepted and used by Portuguese public administration years before 2015 CPA and there were several legal frameworks accepting the use of electronics means in administrative procedures. The 2015 CPA accepted what was already obvious and provided for general rules thus ruling for all the administrative procedures.

In 2021, the legislature approved a surgical amendment to the CPA.⁵⁴ The advancement of electronic communications, dematerialisation, and the shortening of administrative deadlines were the main notes. Indeed, on the one hand, legal rules regarding electronic meetings of collegial bodies were finally enshrined therein, thus giving them a claim to permanence instead of the temporary nature that COVID-19 measures had. On the other

hand, it was finally decided that the administrative process (i.e., the actual administrative file) is preferably dematerialised through tools that enable the inclusion of the documents incorporated and prevent their violation and loss, ensuring the authentication of all the intervenients in the procedure. Finally, the deadlines to issue legal opinions (from 30 to 20 working days as default), to notify administrative acts (from 8 to 5 working days) and to have final decisions on administrative procedures (from 90 to 60 working days for private initiative procedures and from 180 to 120 working days for ex officio initiative procedures) were shortened, the scope of the notifications per advertisement was amplified (from 50 to 25 working days), and the period within which electronic notifications are deemed to have been made has been reduced (from 25 to 5 working days).

5.2. Overall Assessment

All the mechanisms mentioned above seem to be *prima facie* adequate means to achieve administrative simplification. Whether they improved public administration's timings or increased the number of applications, it is still unclear.

There are, however, some solutions adopted by the CPA which, instead of promoting administrative simplification, add complexity to the administrative activity.

The first one is the language of the procedure. The CPA established Portuguese as the exclusive language of all administrative procedures (Article 51 of CPA). This solution imposes on procedure participants the burden of getting translated, through their means, all the relevant documents to be used in the administrative procedure that are not written in Portuguese. Furthermore, it is frequent in some administrative procedures, such as academic and scientific ones, for the procedure to have a bilingual nature. Thus, a possible way out of this complex solution is to interpret the language of the procedure norm narrowly, as to permit the presentation of documents written in foreign languages (Silveira 2020b).

The second one regards the administrative support mechanism. Although it promotes better decisions, it also adds complexity if one is to include tardiness in that concept. Indeed, the administrative support mechanism imposes this subprocedure in the conditions mentioned above and that increases the slowness when deciding (Silveira 2020b).

The third one is related to procedural conferences. Even though it is an important simplification and efficiency mechanism, the CPA requires express legal or regulatory permission for it to occur—except for autonomous public entities, in which case an interadministrative contract suffices. As a result of this requirement, procedural competences are still an infrequent phenomenon.

The fourth and final one concerns the enforcement of administrative acts. The CPA determines that enforcement procedures must always begin with the issuance of an autonomous and duly motivated decision to proceed with administrative enforcement, in which the competent administrative body determines the content and terms of enforcement (Article 177 (2) of CPA). This solution increases the duration of the procedure and seems “to treat administrative procedures as a procedure similar to a judicial one” (Silveira 2020b).

6. COVID-19 Legislation

The COVID-19 pandemic created the sudden and immediate need for further measures of simplification (Coimbra et al. 2020; Duarte 2020). Public health restrictions made it impossible for citizens to establish a physical/personal contact with the public administration in many cases. To tackle the new pandemic realities, several amendments to administrative procedural legal regimes were approved, each with a different scope and temporal validity.

The first relevant bill was approved shortly after the pandemic hit Portugal and it consisted of an interim solution prompted by the general lockdown.⁵⁵ The measures contained therein included, among other solutions in field of public procurement (Estorninho 2020; Assis Raimundo 2020; Coimbra et al. 2020), the imposition of a general suspension of deadlines (among other reasons, to avoid tacit deferrals),⁵⁶ and the prorogation of the validity of several administrative acts, as well as temporarily modifying organisational rules. The latter consisted of the following measures:

1. The permission for electronic (in lieu of in person) meetings of collegial bodies—allowing all members or some members only to participate in this new fashion, and as long as the meetings' minutes mentioned the modality in which each person participated;
2. The permission for electronic public examinations (in the context, e.g., of the award of academic degrees or *concurso públicos* to become a public worker);
3. The extension of deadlines for ordinary meetings for local bodies;
4. The temporary suspension of the compulsory public nature of some meetings of local bodies;
5. The tacit delegation of some competencies of the municipality in its president related to the provision of support to people in vulnerable situations;
6. The permission or imposition of telework for public workers.

7. Conclusions

Although simplification is an ever-present topic in Administrative Law, the intentional and specific movement for simplifying administrative procedures, regarding Portuguese law, can be placed in the end of the XX century, with Decree-Law n. 135/99. The measures adopted there, despite their relevance, concentrated in reducing some administrative burdens or red tape, but did not reveal a systematic approach aimed at reducing the number of administrative decisions and procedures.

The Simplex programme, beginning in the middle of the first decade of the XXI century, was different in this regard, since it gave the second visible boost to this movement, with a much wider reach and scope, actually rethinking the need for many autonomous procedures and documents, concentrating or eliminating many of them, and adopting instruments such as positive acts and mere communications, which was also promoted by the implementation of European legislation in the same vein.

The 2015 CPA was the following relevant moment in this process, focusing on several aspects, namely, a much wider integration of e-administration tools in the general administrative procedure code, as compared to the previous situation.

Finally, and without surprise, the COVID-19 pandemic has given rise, in 2020 and 2021, to some important transformations on this matter: on the one hand, because the pandemic called for immediate solutions, in some cases *forcing* simplification (in the way that public bodies function internally, and in the way they deal with citizens) in ways that were technologically possible previously, but not extensively used, as the far-reaching implementation of remote meeting tools has shown. In other cases, the pandemic seems to have offered the occasion to accelerate and implement previous latent needs for additional simplification: for example, the 2020 amendment to the 2015 CPA reduced, to a significant degree, the general deadlines for issuing administrative decisions, which is something that is not directly linked to the pandemic. In any event, it must be said that whether or not the most recent measures taken in Portuguese Law will lead to significant simplification, remains to be seen.

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Notes

- 1 For an overview of Portuguese Better Regulation policies, see [Silveira \(2020a\)](#), pp. 395–97, [Silveira \(2016\)](#), pp. 75–100, and [Ettner and Silveira \(2014\)](#), pp. 207–40.
- 2 For an overview of Portuguese policies to streamline courts' procedures and improve courts' management see [Silveira \(2012, 2015, 2017\)](#).
- 3 For an overview of EU Better Regulation policies until 2014, see [Xhantaki \(2014\)](#), pp. 333–46.
- 4 On access to administrative information, see [Fidalgo de Freitas \(2021\)](#), pp. 31–115; [Fidalgo de Freitas \(2016\)](#), pp. 667–88.
- 5 On the tacit approval of administrative procedures, see [Assis Raimundo et al. \(2020\)](#), pp. 279–307.
- 6 By Decree-Law n. 29/2000, of 13 March; Decree-Law n. 72-A/2010, of 18 June; Decree-Law n. 73/2014, of 13 May, Decree-Law n. 58/2016, of 29 August; Decree-Law n. 74/2017, of 21 June; and Decree-Law n. 61/2021, of 19 August.
- 7 In any case, on the relation between the CPA and Decree-Law n. 135/99, of 22 April, see [Sousa Pinheiro et al. \(2016\)](#), p. 89.
- 8 Approved by Decree-Law n. 111/2005, of 8 June, last amended by Decree-Law n. 33/2011, of 7 March.
- 9 Approved by Decree-Law n. 178-A/2005, of 28 October, which amended the Code for the Registration of Vehicles, approved by Decree-Law n. 54/75, of 12 February, last amended by Decree-Law n. 111/2019, of 16 August.
- 10 Doing Business 2007 may be accessed in DB07-FullReport.pdf (doingbusiness.org, accessed on 1 October 2021).
- 11 The debate of the Prime-Minister with the Parliament of 27 January 2006 may be accessed in Debates Parlamentares—Diário 083, p. 3886 (parlamento.pt, accessed on 27 January 2006).
- 12 The majority of Governments since 2006 yearly update Simplex with new measures but some of them did not follow this practice. In Portugal, the Simplex programme was set up by a government of the Socialist Party and this party's governments used to update Simplex programme yearly. Governments from other parties did not repeal the programme and stated that simplification and red tape reduction was also their goal, but they usually do not update the programme yearly.
- 13 Approved by Decree-Law n. 111/2005, of 8 June, last amended by Decree-Law n. 33/2011, of 7 March.
- 14 Approved by Decree-Law n. 263-A/2007, of 23 July, last amended by Decree-Law n. 125/2013, of 30 August.
- 15 Approved by Law n. 29/2007, of 2 August, which amended the Code of Civil Registration, Decree-Law n. 131/95 of 6 June, last amended by Law n. 49/2018, of 14 August.
- 16 Approved by Decree-Law n. 73/2008, of 16 April, last amended by Decree-Law n. 209/2012, of 19 September.
- 17 Approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration, approved by Decree-Law n. 403/86 of 3 December, last amended by Law n. 58/2020, of 31 August.
- 18 Also approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration.
- 19 Approved by Decree-Law n. 116/2008, of 4 July, which amended the Code of Land Registration, approved by Decree-Law n. 224/84 of 6 July, last amended by Law n. 89/2017, of 21 August.
- 20 Decree-Law n. 111/2005, of 8 June, last amended by Decree-Law n. 33/2011, of 7 March, and Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration.
- 21 Decree-Law n. 169/2012, of 1 August, last amended by Decree-Law n. 9/2021, of 29 January.
- 22 Decree-Law n. 209/2008, of 29 October, already repealed.
- 23 Approved by Decree-Law n. 48/2011, of 1 April, last amended by Decree-Law n. 10/2015, of 16 January.
- 24 For more on *Zero Licensing* (“Licenciamento Zero”), see [Leitão Marques et al. \(2012\)](#).
- 25 Approved by Decree-Law n. 48/2011, of 1 April, last amended by Decree-Law n. 10/2015, of 16 January.
- 26 Decree-Law n. 92/2010, of 26 July, last amended by Decree-Law n. 9/2021, of 29 January, and many others.
- 27 Decree-Law n. 10/2015 of 16 January, last amended by Decree-Law n. 9/2021, of 29 January.
- 28 Approved by Decree-Law n. 75/2015, of 11 May, last amended by Decree-Law n. 119/2019, of 21 August.
- 29 Decree-Law n. 143/2008, of 25 July, which amended the repealed Code of Industrial Property. The currently in force Code of Industrial Property was approved by Decree-Law n. 110/2018, of 10 December, amended by Decree-Law n. 9/2021, of 29 January.
- 30 Approved by Decree-Law n. 324/2007, of 28 September, which amended the Code of Civil Registration.
- 31 Approved by Decree-Law n. 324/2007, of 28 September, which amended the Code of Civil Registration.
- 32 For instance, Decree-Law n. 73/2014, of 13 May, Decree-Law n. 324/2007, of 28 September, and Decree-Law n. 116/2008, of 4 July.
- 33 Approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration.
- 34 Approved by Decree-Law n. 125/2006, of 29 June, last amended by Decree-Law n. 209/2012, of 19 September.
- 35 Approved by Decree-Law n. 116/2008, of 4 July, which amended the Code of Land Registration.
- 36 Approved by Decree-Law n. 324/2007, of 28 September, which amended the Code of Civil Registration Code.
- 37 Approved by Decree-Law n. 8/2007, of 17 January, last amended by Law n. 199/2019, of 18 September.
- 38 Law n. 7/2007, of 5 February, last amended by Law n. 61/2021, of 19 August.

- 39 Approved by Decree-Law n. 178-A/2005, of 28 October, which amended the Code for the Registration of Vehicles.
- 40 Approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration Code.
- 41 Approved by Decree-Law n. 73/2008, of 16 April, last amended by Decree-Law n. 209/2012, of 19 September.
- 42 Decree-Law n. 73/2014, of 13 May, which amended Decree-Law n. 135/99, of 22 April.
- 43 For instance, Decree-Law n. 116/2008, of 4 July, which amended the Code of Land Registration Code.
- 44 Approved by Law n. 7/2007, of 5 February.
- 45 Approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration.
- 46 Approved by Decree-Law n. 116/2008, of 4 July, which amended the Code of Land Registration.
- 47 Approved by Decree-Law n. 324/2007, of 28 September, which amended the Code of Civil Registration.
- 48 Approved by Decree-Law n. 178-A/2005, of 28 October, which amended the Code for the Registration of Vehicles.
- 49 Approved by Decree-Law n. 76-A/2006, of 29 March, which amended the Code of Commercial Registration, approved by Decree-Law n. 403/86, of 3 December, amended; Decree-Law n. 178-A/2005, of 28 October, which amended the Code for the Registration of Vehicles; Decree-Law n. 324/2007, of 28 September, which amended the Code of Civil Registration by Decree; and the Decree-Law n. 116/2008, of 4 July, which amended the Code of Land Registration.
- 50 Approved by Decree-Law n. 126/2019, of 29 August.
- 51 Regulatory sandboxes have been suggested, or adopted, as a regulatory approach in sectors where the interests involved are not likely to allow innovation if certain rules are not lifted (e.g., rules on sanctions), or where an open-ended and prospective set of rules is necessary because technologies are not sufficiently mature, among other cases. For some references, and an application regarding fintech, which is one of the sectors where this approach has been more consistently used, see Allen (2019). See also the Council of the European Union's conclusion document "Council Conclusions on Regulatory sandboxes and experimentation clauses as tools for an innovation-friendly, future-proof and resilient regulatory framework that masters disruptive challenges in the digital age", available at <https://data.consilium.europa.eu/doc/document/ST-13026-2020-INIT/en/pdf>, accessed on 1 October 2021. For an example of a regulatory sandbox in the Portuguese legal order, see Decree-Law n. 67/2021, of 30 July, on technological free zones.
- 52 For more on the background of the CPA provisions on mere prior notices and previous communications, see Silveira (2013), pp. 115–16.
- 53 On tacit administrative acts of approval, see Silveira (2004).
- 54 See Law n. 72/2020, of 16 November.
- 55 See Decree-Law n. 10-A/2020, of 13 March, as well as Law n. 1-A/2020, of 19 March, Law n. 4-A/2020, of 6 April, Law n. 16/2020, of 29 May, and later Law n. 72/2020, of 16 November. See also Resolution of the Council of Ministers n. 10-A/2020, of 13 March.
- 56 For an in-depth analysis of the prorogation of deadlines, its modalities and its effects, see Coimbra et al. (2020), pp. 59–72; Antunes (2020), pp. 332–38; Duarte (2020), pp. 296–97, 302–10, 313–15.

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