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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

in co-operation with

**THE PRIME MINISTRY OF JORDAN / INSTITUTIONAL PERFORMANCE  
AND POLICY DEPARTMENT**

**AND**

**THE GENERAL PERSONNEL COUNCIL OF PALESTINE<sup>1</sup>**

**10<sup>th</sup> Regional seminar for senior public officials**

**UniDem Med**

**“LEADING INNOVATION IN THE CIVIL SERVICE:  
FROM RULE OF LAW STANDARDS TO LEADERSHIP”**

**W Hotel  
Amman, Jordan**

**4 – 6 November 2019**

**PUBLIC ADMINISTRATION MODERNISATION AND RULE OF LAW PRINCIPLES**

by

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Ensuring Sustainable Democratic Governance and Human Rights in the Southern Mediterranean



<sup>1</sup> This designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of Council of Europe and European Union member States on this issue.

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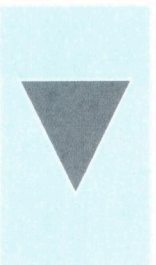
**Amman, Jordan**

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**CALLIOPE SPANOU  
NATIONAL & KAPODISTRIAN UNIVERSITY OF ATHENS,  
GREECE**

# STARTING POINTS

- PUBLIC INSTITUTIONS
- PUBLIC TRUST
- SENIOR CIVIL SERVICE,
- RULE OF LAW PRINCIPLES:
  - LEGAL CERTAINTY
  - ACCOUNTABILITY





# LAW IS PREDICTABILITY

- LAW: AT THE CENTER OF ADMINISTRATIVE THEORY AND PRACTICE .
- SOCIAL TECHNOLOGY MEANT TO RATIONALIZE THE EXERCISE OF POWER IN ANY OF ITS FORMS: PRIVATE AND PUBLIC
- AGAINST ARBITRARINESS:
  - PREVENT ABUSE OF POWER
  - ENSURE TRANSPARENCY & ACCOUNTABILITY
- A MEANS TO AN END
- CRITICAL ELEMENT OF MODERN DEMOCRACY
  - EVOLVED WITHIN DIFFERENT CULTURAL AND POLITICAL-ADMINISTRATIVE SYSTEMS
- CONDITIONS FOR GOOD ADMINISTRATION AND SOUND PUBLIC GOVERNANCE

# PREDICTABILITY CREATES TRUST

## ➤ INTERPERSONAL TRUST

- SMALL GROUP LEVEL: EXPECTATION OF RECIPROCITY / MORAL OBLIGATION OF TRUSTED PERSON. RELIABILITY
- CANNOT BE GENERALIZED WITHOUT SOME FORM OF MEDIATION
- TRUST IN GOVERNMENT – IMPERSONAL
- INSTITUTIONS = FUNCTIONAL EQUIVALENTS FOR INTERPERSONAL TRUST
- **EXPECTATION THAT INSTITUTIONAL ACTORS WILL LIVE UP AND ENFORCE THE NORMS OF THE INSTITUTIONAL SETTING IN WHICH THEY INTERACT**
  - EXAMPLE: RESPECT FOR THE LAW, PROFESSIONAL ETHICS
  - PEOPLE LEGITIMATELY EXPECT CONCERN FOR THE COMMON GOOD FROM GOVERNMENT AND THE CIVIL SERVICE

**PROMOTE**

**REFORM**

## **THE RULE OF LAW & PUBLIC TRUST**

- DEVELOP RULES AND PROCEDURES
- SHAPE ROLES & BEHAVIOR
- DEVELOP 'MORAL OBLIGATION'
- BUILD TRUST



# RULE OF LAW & PUBLIC ADMINISTRATION

- PROCEDURAL TYPE OF RATIONALITY: CONFORMITY TO THE LAW
- EVEN WHEN THE LAW DOES NOT SAY WHAT, IT DEFINES HOW
- THE OPPOSITE OF 'THE END JUSTIFIES THE MEANS'
- MODERN ADMINISTRATION ORGANIZED ON THE BASIS OF THE LAW.
- THE LAW LIMITS BUT ALSO EMPOWERS
- PROVIDES THE CRITERION FOR ACCOUNTABILITY AND CONTROL
- ULTIMATE GOAL: PREDICTABILITY IN SOCIETY
  - A COMMON BASIS FOR TRUST THAT FACILITATES SOCIAL ORDER AND SOCIAL INTERACTION

# REGULATING ADMINISTRATIVE BEHAVIOR

## CONDITIONS

- AN EFFECTIVE GUIDE TO ACTION,
- PUBLICIZED
- CLEAR DEFINITION OF ROLES, POWERS AND PROCEDURES
- PROSPECTIVE, RATHER THAN RETROSPECTIVE IN EFFECT
- PROVIDE LEGAL CERTAINTY
- RELATIVE STABILITY OF RULES
- POLITICAL-ADMINISTRATIVE ACTION ON A LEGAL BASIS
- IMPLEMENTATION & COMPLIANCE
- EXCEPTIONS DULY JUSTIFIED



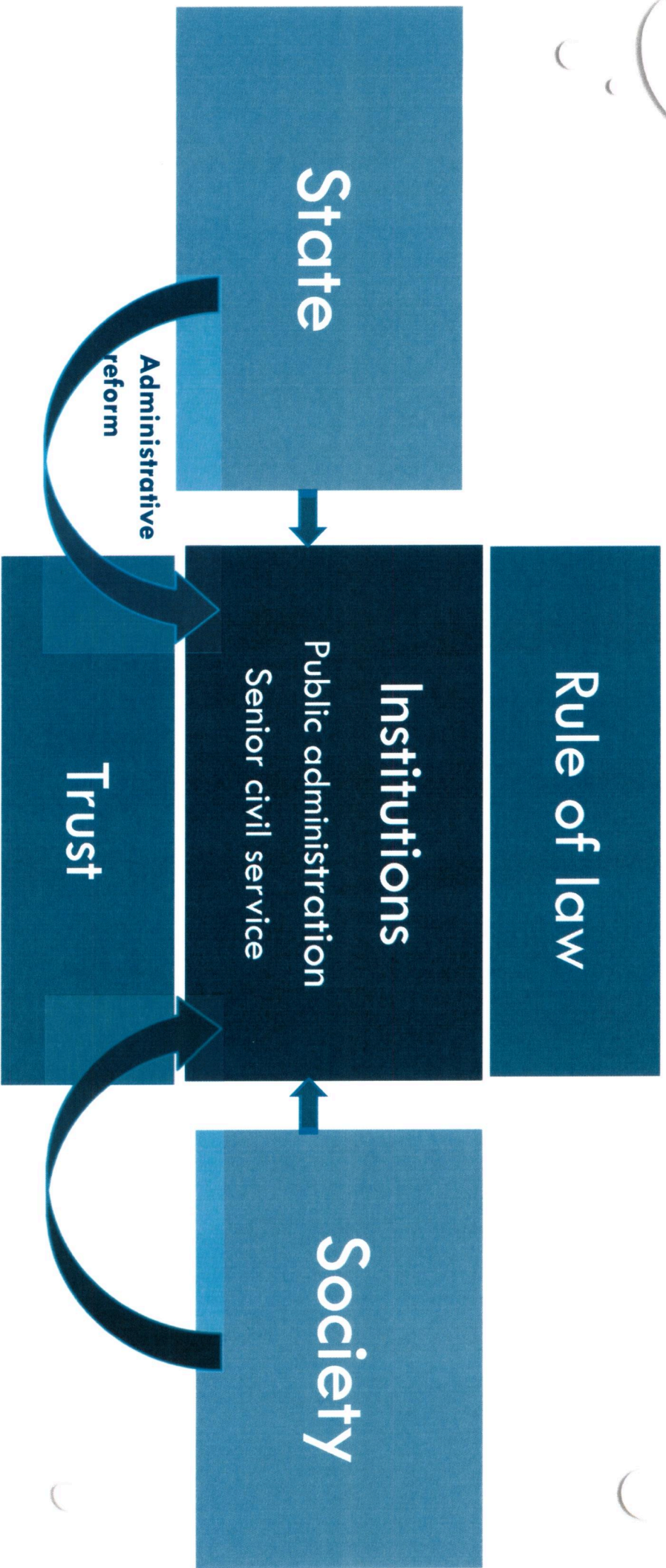
# CHALLENGES

## ➤ INHERENT

- FORMALISM AS LEGALISM
- PROCESS ORIENTATION VS. GOAL - ORIENTATION

## ➤ ENVIRONMENTAL

- DOMINANT POLITICAL & SOCIAL CULTURE
- FORMER EXPERIENCE & INSTITUTIONAL WEAKNESSES
- LEGAL FORMALISM VS. INFORMALITY
- SIDE-EFFECT: DETAILED PROVISIONS



# HIGH PRIORITY GOAL: STRENGTHEN THE RULE OF LAW

- INSTITUTION - BUILDING REFORM
- ROL TRANSITS THROUGH PA AND CIVIL SERVANTS
- PA AS AN INSTRUMENT OF REFORM
  - INTRODUCE ROL INSTRUMENTS IN PA
  - CREATE A PUBLIC SERVICE CULTURE
  - BUILD A RELIABLE CIVIL SERVICE: MERIT, IMPARTIALITY, ETHICS
  - BUILD CAPACITY TO IMPLEMENT
  - AND PRODUCE THE RESULTS
- SENIOR CIVIL SERVICE: MOST IMPORTANT **ACTOR & OBJECT** OF AD-REF
  - ASSIST IN SHAPING, SUPPORT IMPLEMENTATION AND PROMOTE REFORM



# ADMINISTRATIVE REFORM & RULE OF LAW

- ADMINISTRATIVE REFORM = CHANGE.
- UPSETS ROUTINES, CREATES UNCERTAINTY INVOLVES RESISTANCE
- LEGAL FOUNDATIONS OF REFORMS
- IMPLEMENTED ACCORDINGLY
- CLEAR GOALS AND PROCEDURES
- PLANNING, BUDGETING, TIMING, SKILLS
- CONSISTENCY & TIME
- OPENNESS TO FEEDBACK
- GRADUAL ADJUSTMENT
- ADAPTED TO THE NATIONAL CONTEXT

