

Quality Control and Management in Legislation: A Theoretical Framework

Tímea Drinóczi*

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* Associate Professor, Department of Constitutional Law, Faculty of Law, University of Pécs, drinoczi.timea@ajk.pte.hu.

Abstract

It is not enough to claim the quality of legislation. It has to be realized as well. The question is whether the general assumptions of quality management systems can, if at all and to what extent, be adopted to introduce and ensure a quality management of the legislative process. In this paper, based on the previously explained notion on the quality of legislation, a possible theoretical framework for quality management of legislation can be developed. First, the paper will offer an overview on quality management and its application. It will then discuss its applicability to the legislative process and the law making organs. The presumption is that the applicability is partial and it requires both a holistic and an organization-oriented approach, which is embedded in the context of constitutional democracy in which the legislative power intends and is capable of producing constitutional and effective laws. Possible indicators of measuring the quality of legislation are as follows: the measurement and analyzation of the political commitment toward better regulation policies, the existence of proper rules on legislation, the degree of compliance with these rules, the professional preconditions of being employed as a drafter, the training and the education, the drafting process itself, the occurrence of political and constitutional vetos, their reasons and results, the decisions of the constitutional court or other judicial bodies on constitutionality, and the political reaction of the political decision-maker to these rulings.

The main finding of this paper is that an adaptation of the underlying idea of quality management systems is possible without standardizing the legislative process.

Keywords: Quality control and management, Indicators, Measuring quality in legislation, Legislative process, Drafting

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I. Introduction

Claiming the quality of legislation is not enough. It has to be realized and its implementation has to be monitored as well. In viewing the legislative process as a process that can be managed,¹ the main question of this paper is whether there is a quality assurance or a quality management of legislation in place in a constitutional democracy and how the quality of legislation can be measured. This question is based on the assumption that if a process can be managed, then certain quality requirements are met regarding the process itself and its product. The purpose of this paper is to see if there is such a quality management process available in the public administration, as a whole, where law drafts are prepared. This paper, however, does not advocate any particular form of quality management system to be introduced in legislation. It simply investigates how the legal system itself offers some mechanisms for quality management and considers whether the underlying idea of existing quality assurance or management systems could be borrowed at all.

The literature on legisprudence seems to neglect the issue of quality management of legislation, or at least, it does not consider the quality management of legislation as a complex system requiring a holistic view,² which this paper assumes is an essential requirement. Moreover, the view that legislation is a manageable process has received scholarly attention only recently. As I have already mentioned elsewhere, legisprudence, especially when it focuses on the quality of legislation, should be viewed from a wider and more complex legal perspective. In addition, it should not restrict itself to technical issues or collection of best practices.³ For instance, authors deal with the drafting quality,⁴ language and translations,⁵ legislative councils,⁶ impact

1. See Patricia Poperlier, *Management of Legislation*, in *LEGISLATION IN EUROPE: A COMPREHENSIVE GUIDE FOR SCHOLARS AND PRACTITIONERS* (Ulrich Karpen & Helen Xanthaki eds., 2017); see also S. Jacobzone et al., *Indicators of Regulatory Management Systems* (OECD, Working Paper No. 2007/4, 2007).

2. See generally *LEGISLATION AND LEGISPRUDENCE IN EUROPE: A COMPREHENSIVE GUIDE FOR SCHOLARS AND LEGISLATIVE PRACTITIONERS* (Ulrich Karpen & Helen Xanthaki eds., 2017).

3. See Tímea Drinóczi, *Concept of Quality in Legislation – Revisited: Matter of Perspective and a General Overview*, 36 *STATUTE L. REV.* 211, 211-27 (2015).

4. See, e.g., HELEN XANTAKI, *DRAFTING LEGISLATION: ART AND TECHNOLOGY OF RULES FOR REGULATION* (2014).

5. See, e.g., William Robinson, *Making EU Legislation Clearer*, *EUROPEAN J. OF L. REFORMS* 623, 623-31 (2014).

6. See, e.g., Ross Carter, *“High-quality” Legislation – (How) Can Legislative Counsel Facilitate It?*, *THE LOOPHOLE* 41, 41-72 (2011), http://www.calc.ngo/sites/default/files/paper/Carter_Nov2011.pdf.

assessments,⁷ education,⁸ publication,⁹ transparency,¹⁰ RIA,¹¹ ex-post evaluation,¹² sunset legislation,¹³ and their contributions to the quality of laws. Different organizations (e.g., the OECD) and research institutes also survey certain fragments of legislations and its implications to the quality. Thus, a complex and holistic approach towards a quality management of legislation seems to be missing.

In order to understand and answer the research question, the paper starts in Point II with a brief summary of the concept of the quality of legislation, which I have developed earlier. It is followed by an overview of the development of quality management in Point III. Point IV shows the limited adaptability of quality management to legislation and portrays how inherent features of a constitutional democracy provide for the quality of laws and how they are linked to the organization-oriented approach. The next point contains a more detailed description of these approaches. Possible indicators are presented in Point V. The last point summarizes the main findings and draws some conclusions.

II. The Concept of the Quality of Legislation

As I have mentioned above and elaborated elsewhere, the concept of the quality of legislation offers a broader and more constitutional law-oriented approach to legislation as it puts the legislative process in the context of a

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7. KLRI, J. OF LEGIS. EVALUATION 10-1 (2016).
 8. See, e.g., PROFESSIONAL LEGISLATIVE DRAFTERS: STATUS, ROLES, EDUCATION (Felix Uhlmann and Stefan Höfler eds., 2016).
 9. See, e.g., Tímea Drinóczi, *Legislative Process*, in *LEGISLATION AND LEGISPRUDENCE IN EUROPE: A COMPREHENSIVE GUIDE FOR SCHOLARS AND LEGISLATIVE PRACTITIONERS* (Ulrich Karpen & Helen Xanthaki eds., 2017).
 10. See, e.g., Vasiliki Karageorgou, *Transparency Principle as an Evolving Principle of EU Law: Regulatory Contours and Implications*, at 1, <http://www.right2info.org/resources/publications/eu-karageorgou-vasiliki-transparency-principle-as-an-evolving-principle-of-eu-law>.
 11. See, e.g., Stephan Naundorf & Claudio M. Radaelli, *Regulatory Evaluation Ex Ante and Ex Post: Best Practice, Guidance and Methods*, in *LEGISLATION AND LEGISPRUDENCE IN EUROPE: A COMPREHENSIVE GUIDE FOR SCHOLARS AND LEGISLATIVE PRACTITIONERS* (Ulrich Karpen & Helen Xanthaki eds., 2017).
 12. See, e.g., Tímea Drinóczi, *Ex Post Assessment of Legislation in a Comparative Context: CEE and Balkan*, J. OF LEGIS. EVALUATION 127, 127-171 (2016).
 13. See, e.g., Ittai Bar-Siman-Tov, *Temporary Legislation, Better Regulation and Experimentalist Governance: An Empirical Study*, REG. & GOVERNANCE (2016), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2807564.

constitutional state.¹⁴ This notion amalgamates the concepts of ‘legislative quality’ (more constitutional law viewpoint) and ‘regulatory quality’ (more instrumental perspective), which are distinguished by Wim Voermans.¹⁵ The concept of the quality of legislation uses a constitutional law perspective that requires compliance with constitutional values and procedures as well as ability of laws to achieve the scope of legislature by an effective and efficient way. Voermans distinguishes between ‘legislative quality’ and ‘regulatory quality:’ “[t]he quality of legislation is the extent to which the criteria, emanating from constitutional principles, are met. Regulatory quality, on the other hand, is the extent to which legislation...is successful in implementing policies to permit and promote private sector development, fair market conditions, stable institutions, citizens’ satisfaction, etc.”¹⁶ One cannot but agree. However, the following should be kept in mind as well: constitutional principles need to be expressed principles at constitutional level or implied ones deduced by the constitutional court or other courts. Constitutions rarely contain specific legislative-oriented principles, but they include several rule of laws, democracies, and human right related provisions, where the latter cannot be called ‘principles.’ Also, these ‘principles’ need to be reflected in the content of the law. Therefore, Voermans may not entirely be right when stating: “[t]he different notions are not mutually exclusive; in fact, they coincide in some respects. One might, for instance, argue that the regulatory quality of legislation is a part of an overall notion of legislative quality, since it deals with effectiveness and efficiency of legislation.”¹⁷

However, the constitutional and regulatory approach should be seen as two sides of the same coin. In a constitutional democracy, a policy that is to be

14. Drinóczi, *supra* note 3.

15. See also Wim Voermans, *Quality of EU Legislation Under Scrutiny: What Kind of Problem, By What Kind of Standards?*, in *QUALITY OF LEGISLATION: PRINCIPLES AND INSTRUMENTS: PROCEEDINGS OF THE NINTH CONGRESS OF THE INTERNATIONAL ASSOCIATION OF LEGISLATION (IAL) IN LISBON, JUNE 24-25, 2010*, at 38 (Marta Tavares Almeida & Luzius Mader eds., 2011); OECD, *RECOMMENDATION OF THE COUNCIL OF THE OECD ON IMPROVING THE QUALITY OF GOVERNMENT REGULATION (1995)* [hereinafter *IMPROVING QUALITY OF GOVERNMENT REGULATION*]; OECD, *REGULATORY REFORM: EXPERIENCE FROM OECD COUNTRIES 13*, <http://www.oecd.org/mena/governance/40501864.pdf> (OECD findings may not be, however, as it is stated, in general, viewed as mere instrumental approaches. See for instance the checklists in the recommendation of the Council of the OECD on improving the quality of government regulations).

16. Wim Voermans, *Concern About the Quality of EU Legislation: What Kind of Problem, By What Kind of Standards?*, 2 *ERASMUS LAW REVIEW* 59, 67-68 (2009).

17. *Id.* at 68.

implemented will pursue constitutional scope and the piece of legislation implementing the policy needs to also be constitutional both in form and in content. It also means that legislative quality cannot be restricted to effectiveness. It is a broader concept than enumerating legislative related principles and standards.¹⁸ According to Xanthiaki, “legislation of good quality is synonymous to effective legislation, namely legislation that is capable of leading to the efficacy of regulation.”¹⁹ Effectiveness is indeed an essential element of the quality in legislation, but it cannot be seen as an independent and exclusive element. It may likewise be misleading if we understand quality legislation as it “produces the types, extent, and level of regulation required by the government.”²⁰

The same logic is present in the view of Vanterpool. According to Aitken, Vanterpool made comments on quality legislation that rests on two factors: one is “quality in the substance of the law, or the accuracy in representing legislative policy” and the other is “quality in the form of the law and intelligibility.”²¹ The question is not set though. What if the policy and the requirement of the government is not ‘of quality,’ but rather they pursue unconstitutional goals or intend to achieve regulatory goals by a non-well researched or an arbitrary policy making? A ‘bad’ legislation can also be effective and can lead to the efficacy of regulation.²²

Thus, this paper conceptualizes the quality of legislation similarly to my previous works.²³ It entails both the quality of laws as an outcome of the

18. Ulrich Karpen, *Comparative Law: Perspectives of Legislation*, 6 LEGISPRUDENCE 149 (2012).

19. Helen Xanthaki, *Standards for Legislation in Civil and Common Law Countries: Features, Practices, Common Ground*, <http://www.ial-online.org/uploads/2013/04/Xanthaki-presentation-Cape-Town-130409.pdf>.

20. *Id.*

21. Victoria E. Aitken, *An Exposition of Legislative Quality and its Relevance for Effective Development* (2013), <http://www.luc.edu/media/lucedu/prolaw/documents/AITKEN%20FINAL%20ARTICLE.pdf>.

22. *See generally* Case C-286/12, *Comm’n v. Hung.*, (Nov. 6, 2012) (early retirement of judges); *Magyar Keresztény Mennonita Egyház v. Hung.*, App. No. 70954/11 and 8 others, Eur. Comm’n H.R. (2014) (legal status of churches). Despite the rulings, the legislative scopes (that was purely non-Conventional, and in conflict with constitutional principles of a constitutional democracy) were achieved, the legislation was effective and had efficacy: the removal of judges became a reality for those who did not turn to labor court to reinstatement and new senior judges appointed could remain; the rules on churches are still in effect regulating the status of associations that have lost their church status due to the new regulation.

23. Drinóczi, *supra* note 3; Tímea Drinóczi, *Quality legislation and Law Making: Legislation and Legislative Processes in Hungary*, GLOBAL LEGAL ISSUES 2012 [1], Dec. 2012, at 671-706.

decision-making process and legislative process. Laws are capable of reaching the constitutional, legitimate, legal, and necessary legislative aims because their contents are formulated in a due legislative process. Accordingly, the quality of the content of laws also depends on the quality of the legislative process: whether or not it is transparent and it requires a properly conducted policy setting, genuine RIA, and consultation. Furthermore, proper management and compliance by all, including state bodies, are also essential because these elements can guarantee the efficiency, implementability, and constitutionality of laws.

III. Quality Management, Development, Transformation, and Adaptability

In investigating the adaptability of quality management system being applied in the public administration in the field of legislation, first, the orthodox quality management and its reformed application in public administration should be reviewed. As it is known, Total Quality Management (TQM) has been employed in the public sector, and it has become a main component of the New Public Management (NPM) paradigm. Even its closeness to the bureaucracy has been revealed. Unfortunately, however, it seems that quality management has not found linkage with good governance in the literature on public administration, even though good governance is associated with better regulation and a management approach towards legislation.²⁴

A. Development of Quality Control, Assurance, and Management in Private Sector

Evolution of quality management, quality assurance, and quality control during the last century indicates the different approaches as to how quality, first, in the industrial production and then in the service industry, can be ensured and measured.

Quality control of the product was first applied to reach a high selling rate as possible and to increase productivity by eliminating and correcting deviations.

24. See generally OECD & EU, GOOD GOVERNANCE AND BETTER REGULATION AGENDA; S. Jacobzone et al., *supra* note 1, at 8.

As a result, the quality standard had to be set, and production would begin on this basis. In the beginning, an early warning system was used so that production could not resume until problems were detected and fixed.²⁵ The early application of this was for assembly lines and other routine processes.²⁶ The focus was on statistics, which required identification of several characteristics of the product. Statistical quality control was used for these purposes. Eventually, the best practices for controlling product and process outcomes were established and documented. Later, these documented best practices turned into standard practices for quality management systems.²⁷ Quality control in the modern sense has come a long way since its initial formulation in the 1920s in the United States and in the 1950s when it was widely adapted, first, in Japan and then around the world.²⁸ The American response to the quality revolution in Japan gave birth to the concept of TQM, a method for quality management that emphasized not only statistics but also approaches embracing the entire organization. In the late 20th century, independent organizations began producing standards to assist in the creation and implementation of quality management systems.²⁹

Based on this historical development, Elke Löffner divided the history of private sector quality management into five phases in the Western hemisphere:³⁰ quality inspection, statistical quality control, system-oriented quality assurance, company-wide quality control, and TQM.³¹

25. *Quality Control Law and Legal Definition*, U.S. LEGAL, <https://definitions.uslegal.com/q/quality-control/>.

26. James E. Swiss, *Adapting Total Quality Management (TQM) to Government*, 52 PUB. ADMIN. R. 356, 356-62 (1992).

27. *What Is a Quality Management System (QMS)?*, LEARN ABOUT QUALITY, <http://asq.org/learn-about-quality/quality-management-system/>.

28. *Quality Control Law and Legal Definition*, *supra* note 25.

29. *What Is a Quality Management System (QMS)?*, *supra* note 27.

30. Elke Löffler, *Defining Quality in Public Administration 2-7* (2002), <http://unpan1.un.org/int-radoc/groups/public/documents/nispacee/unpan005013.pdf>.

31. *Quality Management Equals QA Plus TQM*, HCI, <https://www.hci.com.au/qa-plus-tqm/>. It is important to see the difference between Quality Control (QC) and Quality Assurance (QA). QC is product-oriented and focuses on defect identification, while QA is process oriented and focuses on defect prevention; it is a corrective tool. QA, as a managerial tool, stabilizes and controls processes, while TQM improves them. Quality management equals QA and TQM. QC finds and eliminates sources of quality problems through tools and equipment so that customer's requirements are continually met. QA establishes a good quality management system and the assessment of its adequacy. In QC, the activities or techniques used to achieve and maintain the product quality, process and service, while QA is about the prevention of quality problems through planned and systematic activities including documentation. QC is usually the responsibility of a specific team that tests the product for defects. Everyone on

TQM involves continuous reevaluation of the same processes and changing them so that they work better for the customer and more efficiently for the company.³² It is a philosophy of management in which the operational elements are a continuous quality improvement and quality circles, as collaborative efforts of a team of workers engage in discovering the problems and solutions³³ with strong management backing.³⁴ There are divergent views on what constitutes TQM among writers on this subject, but there seems to be a compromise about its tenets and key elements.³⁵

The tenets of the TQM may be summarized as follows:

- i) the customer is the ultimate determiner of quality;
- ii) quality should be built into the product early in the production process rather than being added on at the end;
- iii) preventing variability is the key to producing high quality;
- iv) the quality result from people working within the system, not individual efforts;
- v) quality requires continuous improvement of inputs and processes;
- vi) quality improvement requires strong worker participation; and
- vii) quality requires total organizational commitment.³⁶

The key elements of TQM are as follows:

- i) customer orientation;

the team involved in developing the product is responsible for QA. When statistical tools and techniques are applied to finished products (process outputs), they are called Statistical Quality Control (SQC) and it comes under QC. QA involves identifying all the processes in the organization that directly affect quality and standardizing them. This means making sure that the process achieves the desired result, and making sure that everyone in the organization carries out the process in the same way.

32. Karen H. Wruck & Michael C. Jensen, *Science, Specific Knowledge, and Total Quality Management*, 18 J. ACC. AND ECON. 247, 247-87 (1994).

33. *Quality Control Law and Legal Definition*, *supra* note 25 (“The cultivation of team-approaches popular in the mid-2000s for every type of activity owes much to the precedent set by quality circles.”).

34. *Id.*

35. Rauno Vinni, *Total Quality Management and Paradigms of Public Administration*, 8 INT’L PUB. MGMT. R. 103, 108 (2007).

36. Swiss, *supra* note 26, at 357-58 (calling it ‘orthodox TQM’ as opposed to the ‘reformed TQM,’ which can be used in public sphere).

- ii) commitment and leadership;
- iii) planning and organization;
- iv) using quality management techniques and tools;
- v) education and training;
- vi) involvement and teamwork;
- vii) measurement and feedback; and
- viii) cultural change.³⁷

Different forms and rationalizations of TQM have emerged. Yong and Wilkinson offer one classification of TQM³⁸: quality management (in mass-production, with statistical tools), system management (use of systems and processes for controlling quality: ISO, BS³⁹), people management (better management of employees), re-engineering (customer's control perspective is taken instead of the management's), and new management paradigm (overall quality of management which leads to better performance).

As it has already been explained, quality control was first used for the production industry and it focused on the product. Later on, it was surrounded by cultural radiation, such as management approaches, philosophies, and practices aimed at creating a right environment for a quality driven industrial process. Consumer satisfaction has always been another focus point. Also, service providers became interested in quality management and a modified or reformed TQM was developed,⁴⁰ basically because delivered services differ from products and public sphere differs from private businesses.⁴¹

B. Transformation and its Use in Public Sector

According to Swiss, TQM in its orthodox form, as mentioned above, is ill suited to the public sphere. Therefore, it needs to be modified and shaped to the peculiarities and needs of public administration and to the principle of good

37. Vinni, *supra* note 35, at 108.

38. Vinni, *supra* note 35, at 106-108; Josephine Yong & Adrian Wilkinson, *Rethinking Total Quality Management*, 12 TOTAL QUALITY MGMT. 247, 247 (2001).

39. British Standard.

40. *See, e.g.*, ELKE LÖFFLER, THE MODERNIZATION OF THE PUBLIC SECTOR IN AN INTERNATIONAL COMPARATIVE PERSPECTIVE: CONCEPTS AND METHODS OF AWARDED AND ASSESSING QUALITY IN THE PUBLIC SECTOR IN OECD COUNTRIES (2d. 2016).

41. Swiss, *supra* note 26, at 357; Löffler, *supra* note 30, at 8.

governance.⁴² Elke Löffler, relying on Beltrami, distinguishes three phases in the evolution of quality in the public sector: quality in the sense of respect for norms and procedures, quality in the sense of effectiveness, and quality in the sense of customer satisfaction. She also enumerates various quality assessment instruments available for the public sector, such as the ISO 9000 Series and third party certifications, Citizens' Charters, and Quality Excellence Models.⁴³

In the nineties, TQM had a major impact on business management practices that triggered the examination of whether it can also be used in the public sector agencies.⁴⁴ Researchers in the following years focused on the adaptability of a reformed TQM, the differences between its use in the private and public sector, the changing notions of quality, and the relationship between TQM and new public management, the bureaucracy in the 1990's, and good governance in the 2000's. In the 2000's, scholarly attention was devoted to the evaluation on the quality of public governance because the growing dissatisfaction of NPA led to the rise of good governance.⁴⁵

As mentioned above, James E. Swiss proposed in 1992,⁴⁶ a reformed or modified TQM for public environment because public administration provided services and it did not manufacture products. Besides, it focused on input and processes and not on the output. In addition, defining customer (client or the general public, or citizen, etc.) in the context of public administration was problematic. Moreover, the turnover of top-level managers in government agencies was rapid, which may have undermined the high organizational culture that TQM required. Therefore, he suggested that the reformed TQM retain the orthodox TQMs' feedbacks from clients, which can be viewed as one consideration in decision-making, its emphasis on tracking performance, and its principles of continuous improvement and participation of workers (empowerment).

Based on empirical studies in business environment, most features associated with TQM that Thomas C. Powell revealed in 1995, such as quality training, process improvement, and benchmarking, did not produce any advantages. Instead, certain tacit, behavioral features, such as open culture, employee empowerment, and executive commitment were factors that did produce

42. Swiss, *supra* note 26, at 358.

43. Löffler, *supra* note 30, at 6-11.

44. Swiss, *supra* note 26, at 356.

45. Tony Bovaird & Elke Löffler, *Evaluating the Quality of Public Governance: Indicators, Models and Methodologies*, 69 INT'L REV. OF ADMIN. SCI. 313, 315 (2003).

46. Swiss, *supra* note 26, at 358-60.

advantages. It may work similarly in the public sphere. Therefore, the features on which the success of TQM depends more on are open culture, employee empowerment, and executive commitment.⁴⁷ Prospering outside the confines of the TQM ideology and vocabulary is possible so long as they nurture these intangible resources.

In 2007, Rauno Vinni addressed the issue on how TQM fits into a different paradigm of public administration, focusing on the fact that TQM in public organizations were usually associated with the rise of NPM. As a result, he received many criticisms.⁴⁸ TQM resembled NPM because of their emphasis on customer-orientation, decentralization and empowerment, drive for better results, and measurement ethos of entrepreneurship.⁴⁹ He found that bureaucracy, as a Weberian characteristic of a rational organization, was in line with TQM. It was a system management that entailed adequate organizational structures, responsibilities, procedures, processes, and resources for implementing quality management. Both TQM and bureaucracy were about ensuring conformity and making sure that authority and responsibility were clearly defined, employees' actions were regulated by rules and procedures, and expert training was conducted. However, they are obviously not the same. Even though they are both quests for strong culture, the expectations of an entrepreneur, a politician and a bureaucrat, and the target (customer vs. citizens) differ because they involve different responsibilities. He concluded that TQM would not lose its relevance in future public administration. The growing need for better quality public governance necessitates new approaches to operationalize TQM.⁵⁰

Bovaird and Löffler indicated the difference between the approaches of NPM and good governance in relation to quality. While NPM paradigm is interested in getting the instrument right, good governance is about ensuring that the outcomes are right.⁵¹

As a further development of the TQM in the European practice, the Common Assessment Framework (CAF) was developed as a result of cooperation among the EU Ministers who were responsible for public administration. It was specially designed for public-sector organizations. The model is based on the

47. Thomas C. Powell, *Total Quality Management as Competitive Advantage: A Review and Empirical Study*, 16 STRATEGIC MGMT. J. 15, 29-31 (1995).

48. Vinni, *supra* note 35, at 108-110.

49. *Id.* at 121.

50. *Id.* at 117, 120, 124.

51. Bovaird & Löffler, *supra* note 45, at 316.

premise that excellent results in organizational performance, citizens and customers, people, and society are achieved through leadership driving strategy and planning, people, partnerships, resources, and processes. It applies a holistic approach to organization performance analysis. The CAF has five main purposes: to introduce public administrations into the culture of excellence and the principles of TQM, to guide them progressively to a full-fledged 'Plan-Do-Check-Act (PCDA)' cycle, to facilitate the self-assessment of a public organization to arrive at a diagnosis and improvement actions, to act as a bridge between the various models used in quality management, and to facilitate bench learning between public-sector organizations.⁵²

The principles of CAF are as follows:

- i) results orientation;
- ii) citizen/customer focus;
- iii) leadership and constancy of purpose
(clear mission statement, mission, and values);
- iv) management by processes and facts;
- v) people development and involvement
(employees at all levels of the organization);
- vi) continuous learning, innovation, and improvement;
partnership development; and
- vii) social responsibility
(respect ecological sustainability and needs of the community).⁵³

More than 3000 public organizations have registered to use the CAF model since its launch, and thousands more across and outside Europe use it for their specific development purposes.⁵⁴

It can be seen that a lot has changed, but there are certain common components that are constant in either the private or the public sphere, such as commitment, leadership, responsibility, result and consumer orientation, and satisfaction. These constituent elements of quality management, which are also perceived as a philosophy of management, are seen to be applicable also in the

52. *CAF - Common Assessment Framework*, EIPA, <http://www.eipa.eu/en/topic/show/&tid=191>.

53. *Id.* ("The CAF is an easy-to-use tool to assist public-sector organizations across Europe in using quality management techniques to improve their performance. The CAF is a TQM tool, which is inspired by the major Total Quality models in general, and by the Excellence Model of the European Foundation for Quality Management (EFQM) in particular.").

54. CAF, *THE COMMON ASSESSMENT FRAMEWORK (CAF): IMPROVING PUBLIC ORGANISATIONS THROUGH SELF-ASSESSMENT CAF 7-11* (2013), http://www.eipa.eu/files/File/CAF/CAF_2013.pdf.

legislative process if we pursue and wish to realize the quality during and at the end thereof.

IV. Holistic and Organization-Oriented View – Adaptability of Quality Management to Legislation

A. The Holistic and Organization-Oriented View

It has already been briefly mentioned that the legislative process lately has been seen as a manageable process. Now, the question is how can the legal system assure that both the legislative process and the law are of quality.

To check if the law and legislative process are of quality, we need to define first what quality means in this context. Quality, being a relative notion, needs benchmarks. The content of the law greatly depends on the quality of the legislative process. It is more probable that the law is of quality if, apart from its constitutional content, it is adopted in a well-managed legislative process. The law should produce the planned impacts, be able to achieve its set goal, and generate compliance. Thus, an inclusive and transparent legislative process is needed. This kind of legislative process can only be well-managed if it is seen as a cyclic process. It will then cover proper policy setting, drafting, consultation, conducting extensive and substantive impact assessments (ex ante and ex post, including reducing red tape, or sunset legislation), and many other steps and actions, which is currently seen by the EU and most other advanced states, the OECD, research institutes, and academia as an important part of the legislative process.⁵⁵ Also, legislative planning and coordination should be in place, which is a prerequisite of any manageable process. It is also important that hard or soft laws address these issues, as the content of laws governing the legislative process themselves would serve as a benchmark in the exercise of measuring the quality of legislation.

The first instrument that can ensure the quality of laws and legislative process is the constitutional system itself, which can prevent or remedy unconstitutional

55. See, e.g., Voermans, *supra* note 16; *Smart Regulation in the European Union*, at 2, COM (2010) 543 final (Oct. 8, 2010); *EU Regulatory Fitness*, at 2, COM (2012) 746 final (Dec. 12, 2012); *Regulatory Fitness and Performance (REFIT): Results and Next Steps*, COM (2013) 685 final (Feb. 10, 2013); KLRI, SGI INDEX OF THE BERTELSMANN STIFTUNG.

legislative actions of the state if it properly functions with its checks and balances and operates a reasonable public administration.⁵⁶ In this context, a holistic view is employed.

In the course of preparing laws, certain central administration bodies are responsible for ensuring the compliance with higher laws, international obligations, and legislative procedural rules. Should they fail to do so because, for example, political will overweigh professional consideration, there are still parliamentary rules that are required to be observed. At the end of the voting process, the head of state, which may have a constitutional and political veto, is entitled to intervene and veto the law. As a final resort for ensuring the constitutionality of the law and the legislative process, there is the judicial review conducted by high courts or constitutional courts. These actors will view the content of the law and the legislative process as a matter of constitutionality. The constitutional review of laws has already been in place for decades, and the legislative process has become more extensive as well. The latter is mainly generated by an ever strengthening certainty according to which the legislative power, as political decision-maker, is to be rational regarding adopting evidence-based decisions.⁵⁷ The extent of the constitutional review depends on the particular state's legal framework and awareness of its constitutional or high court to address the issue of rationality or evidence-based legislation. There is a well justified anticipation concerning the following results: the more stress is made on the existence of and compliance with particular legislative steps, the more quality is foreseen during and at the end of the legislative process, in terms of better implementation on the very idea of constitutionality and constitutional principles. These principles encompass transparency, accountability, inclusiveness, and rule of law and the view that the person affected by legislation is not the object but the subject of the legislative process. The mentioned principles, depending on the particular legal system, may or may not justify unconstitutionality or illegitimacy, but courts are still free to raise related concerns.⁵⁸

56. See Drinóczi, *supra* note 9 (comparative overview).

57. See, e.g., THE ROLE OF CONSTITUTIONAL COURTS IN MULTILEVEL GOVERNANCE (Patricia Popelier et al. eds., 2013).

58. Ittai Bar-Siman-Tov, *Semiprocedural Judicial Review*, 6 LEGISPRUDENCE 277 (2012); *Editor's Introduction*, in THE ROLE OF CONSTITUTIONAL COURTS IN MULTILEVEL GOVERNANCE 1 (Patricia Popelier et al. eds., 2013); David Keyaerts, *Courts as Regulatory Watchdogs? Does the European Court of Justice Bark or Bite?*, in THE ROLE OF CONSTITUTIONAL COURTS IN MULTILEVEL GOVERNANCE 272 (Patricia Popelier et al. eds., 2013); See, e.g., RATIONAL LAWMAKING UNDER REVIEW: LEGISPRUDENCE ACCORDING TO

The constitutionality on the content of the law or the compliance with rules governing the legislative process, however, tells us nothing about its political rationality, economic viability, efficiency, social-reflectiveness, its necessity, and etc. These are outside the purview of judicial review because it belongs within the ambit of a political decision-maker.

As it is evident, the constitutional system is not a process; it cannot be managed. The second instrument plays a role in this regard. The legislation, as a democratic decision-making process, presupposes and requires the participation of many actors in the legal system, and the actions of these actors, as a whole, constitutes the legislative cycle. The legislative cycle can be and shall be managed, as the output of the lawmaking process is a legally binding measure that may entitle and oblige citizens. It may also impose obligations on the state. The law is an instrument of governance, and it is closely linked to the principle of representative democracy. In a democracy, it is up to the political parties and interest organizations to aggregate, articulate, shape, and canalize the various needs and interests of the people and formulate those needs and interests into laws or try to influence their contents. The interest of the political party in power is to remain in power by conducting policies that it thinks is beneficial for its political agenda. By implementing policies, the political decision-maker drafts and adopts the laws. These laws not only need to be compatible with the agenda of the government and the party or parties behind them, but they also have to be necessary and they need to address pressing social, economic, and otherwise important issues that interest the society and the 'end-user' of laws (i.e., citizens, businesses, private institutions, etc.). People will probably be more satisfied with the political decision-maker if the people see that they could voice their opinions and legislations rationally serve the public good according to the political agenda of the elected representatives.

THE GERMAN FEDERAL CONSTITUTIONAL COURT (Klaus Messerschmidt & A. Daniel Oliver-Lalana eds., 2016) (German example); Magyar Keresztény Mennonita Egyház v. Hung., App. No. 70954/11 and 8 others, Eur. Comm'n H.R. (2014) (Hungarian practice); Alajos Kiss v. Hung., App. No. 38832/06, Eur. Comm'n H.R. 41 (2010) (exemplifying the position of the ECtHR in this regard). Courts are more and more willing to examine the rationality of legislation. Constitutional and high courts consider the adequacy of the procedure itself or use the proportionality analysis or seek rational causality between facts revealed during the preparation of the draft and the chosen policy option, which has appeared in the reviewed piece of legislation. The ECtHR is interested in whether a proper balancing exercise between the compelling principles and rights has been made during the national legislation by the use of better regulation tools. The CJEU requires the lawmaker to show evidences, i.e., supporting materials (better regulation tools and standards) based on which the particular legislative measure has been adopted.

Moreover, they need to experience that the laws comply with the criteria of legal certainty depending on the foreseeability, the predictability of laws, the prohibition of detrimental retroactive legislation, etc.

Therefore, the second instrument available for achieving quality in legislation is a legally streamlined legislative process where the existence of embedded procedures potentially enables an increase in the probability of producing quality laws and having quality legislative process. Thus, if the legislative process is well managed, regulatory tools, such as consultation, impact assessment, and etc., are expected to be employed that could potentially increase the quality of both the product that is the law and the process. Due to their interrelatedness, higher legislative standards trigger higher trust in institutions and better functioning of the government. Even the level of democracy may increase or at least its decline may be slowed down or reversed.⁵⁹

B. The Adaptability of Quality Management to Legislation

It seems that legislation, *mutatis mutandis*, share some similarities with the majority of the tenets of the TQM.

- i) The customer is the ultimate determiner of quality. In other words, in a highly oversimplified context, if electors do not agree with political decisions appearing in legal measures or the ways in which laws are adopted because of the lack of transparency and rationality, they would not cast their vote for the same candidates again. For this, a high degree of awareness is needed, which presupposes the flow of information concerning legislation, legislative activity, and education.
- ii) Quality should be built into the product early in the production process rather than being added on at the end. In other words, the legislative process is better to benefit inputs at the very beginning that originates from impact assessments (both *ex-ante* and *ex-post* evaluation) and consultation because it would reduce the probability of an ineffective law. The legislative process needs to be designed in a way, which requires and can 'afford' in terms of time-management of these activities.

59. This goal however cannot be achieved without the holistic approach, including the effective contribution of courts requiring 'rationality in legislation,' because formality can only result in an even more formal democracy and autocratic governance. On the interrelatedness, *see, e.g.,* Drinóczi, *supra* note 3; Cesare Pinelli, *The Populist Challenge to Constitutional Democracy*, 7 EUROPEAN CONST. L. REV. 5, 5-16 (2011).

- iii) The quality results from people working within the system, not individual efforts. In a legislative process, as being a team effort, this cannot even be otherwise. It would require individual skills and competences also related to work in a team and knowledge in the field of law the staff is working on. All these may be improved and increased by training. However, personal and institutional commitment and leadership also have to be emphasized in this context, provided that we consider Powell's view on the importance of the behavioral features. Nevertheless, in connection with those who are employed in the field of law or public administration and legislation, the necessity of continuous training cannot be ignored. If the institutional culture does not seem adequate, but there is a political commitment in place towards the quality of legislation, the introduction of certain employment requirements may be considered, like degrees in legislative studies. It would certainly require an adequate educational system, which is supported by the political decision-maker.
- iv) Quality requires continuous improvement of inputs and processes. After the routine exercise of ex-ante impact assessment, both practice and academia started to realize that it should be linked to ex-post assessment to understand the actual impact a piece of legislation generates.⁶⁰ Even before, the ex-ante assessment was expanded to many areas, well beyond cost and benefit and environmental evaluation.⁶¹ A similar development could be seen concerning consultation and drafting, the e-publication of laws and drafts, transparency of the parliamentary procedures through the broadcasting of debates, and etc. These have been boosted by the quest for competitiveness,⁶² the scholarly literature,⁶³ and international organizations, such as OECD, OSCE ODIHR.⁶⁴

60. Drinóczi, *supra* note 12.

61. See, e.g., *Operational Guidance on Taking Account of Fundamental Rights in Commission Impact Assessments*, SEC (2011) 567 final (June 5, 2011).

62. See, e.g., KAI WEGRICH, *THE ADMINISTRATIVE BURDEN REDUCTION POLICY BOOM IN EUROPE: COMPARING MECHANISMS OF POLICY DIFFUSION* 6 (2009), <https://core.ac.uk/download/pdf/219550.pdf> (discussing better regulation, the Netherlands and the first round of reduction of administrative burdens and its success story in Europe and in the EU).

63. Wim Voermans & Egon Verharen, *LEDA: A Semi-Intelligent Legislative Drafting-Support System*, JURIX, at 81, 81-94, https://openaccess.leidenuniv.nl/bitstream/handle/1887/3643/360_040.pdf?sequence=1; Timothy Arnold-Moore, *Automatic Generation of Amendment Legislation*, in *PROCEEDINGS OF THE 6TH INTERNATIONAL CONFERENCE ON ARTIFICIAL INTELLIGENCE AND LAW* 56-72 (1997); Karl Irresberger & Anna Jasiak, *Publication*, in *LEGISLATION AND LEGISPRUDENCE IN EUROPE: A COMPREHENSIVE GUIDE FOR SCHOLARS AND LEGISLATIVE PRACTITIONERS* (Ulrich Karpen, Helen Xanthaki eds., 2017).

64. OSCE ODIHR, *ASSESSMENT OF THE LEGISLATIVE PROCESS IN GEORGIA* (2015), <http://www.o>

- v) Quality improvement requires strong worker participation. As it has already been mentioned, if the staff involved in, for example, drafting, impact assessment, consultation, etc., is not trained or negligent, or the citizens, businesses or other stakeholders are not aware of the importance of being involved in legislative processes, laws may be defective. They may be inefficient, unconstitutional, unintelligible, or may cause detrimental and/or unexpected effects, etc. Besides, if those affected by the legislation are not aware of what is going on at the central and local administration⁶⁵ and during the legislative process, they cannot form an informed opinion about the performance of their state and government.
- vi) Quality requires total organizational and political commitment. All actors, for example, at departmental, ministerial, governmental level, the parliament, and during judicial review should be aware of the importance of rational and thus quality law making. Each actors need to consider quality concerning legislation through its particular lenses. However, a total and, more preferably, an explicit political commitment are necessary to achieve all those mentioned above. Otherwise, staff and institutions, save for perhaps the judiciary, would just simply not care.⁶⁶

Following from all these, the above-mentioned key elements of TQM may also be applicable in the legislative process,⁶⁷ including customer or voter orientation, commitment and leadership, planning and organization, education and training, involvement and teamwork, measurement and feedback, and cultural change.⁶⁸

Therefore, using quality management techniques and tools is apparently applicable in the legislative process. Laws may be seen as products where the quality has to be assured by a quality assurance approach, whereas the

sce.org/odihhr/138761?download=true.

65. This paper does not address it even though the quality approach towards legislation may be better studied in a local environment.

66. See Drinóczi, *supra* note 12 (the practice of ex-ante impact assessments in Hungary and Croatia).

67. Vinni, *supra* note 35, at 108.

68. See, e.g., Evelina Agota Vitkute, *EU Initiative of Better Regulation and its Status in Lithuania*, 8 EUROPEAN INTEGRATION STUD. 28, 29 (2014); Jaroslav Dvorak, *The Lithuanian Government's Policy of Regulatory Impact Assessment*, 23 MGMT. & BUS. ADMIN. CENT. EUR. 129, 129-46 (2015).

legislative process may be considered as a process, which can be organized according to the tenets of quality management (TQM or CAF). Quality control and management in legislation thus are seen from a holistic and organization-oriented approach, which is already in place in the guise of CAP in the public administration. In the holistic view, even third-party evaluation by the OECD, human rights watchdog institutions and the judiciary may be used. The self-evaluation is also employed, provided that different corrective-mechanisms, such as ex-post impact assessment or sunset legislation, are in place in a particular legal system.

V. Measuring the Quality of Legislation

Quality control and management in legislation encompasses the shaping of regulatory environment on legislation, its implementation, and execution. It requires the observance of modern constitutional requirements and alignment with the international, supranational,⁶⁹ and national trends and best practices (impact assessment, simplification, reduction of administrative burdens, etc.) regarding legislation. Its function is to examine whether the most adequate hard and/or soft, including a description of methodologies, measures govern legislation and whether the legislation as a process or its phases complies with them, and if they do, how they do so. Benchmarking the drafting process and the performance of drafters may expand more of these substantive findings of

69. E.g., IMPROVING QUALITY OF GOVERNMENT REGULATION, *supra* note 15; *Sustaining Regulatory Management Improvements Through a Better Regulation Policy*, at 10 (June 6, 2007), [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/sigma\(2007\)6](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/sigma(2007)6); *Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions for a Strategic Review of Better Regulation in the European Union*, COM (2006) 690 final (Nov. 14, 2006); *Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Region for a Third Strategic Review of Better Regulation in the European Union*, COM (2009) 15 final (Jan. 28, 2009). At the EU level, the first steps towards better regulation took place in the mid-nineties when the effort on raising the quality of regulation became increasingly systematic, and it has effects till today. To achieve better regulation at EU level, the Member States in their national reform programs had to respond to better legislation guidelines and make the adequate measures. In so doing they had to take into consideration and keep the EU principles (necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity) of better regulation, and the reform programs had to be developed in line with these factors.

quality of legislation. The basis of this exercise is the employment requirements and required knowledge and skills of drafters where the introduction, as mentioned above, depends on the particular institutional culture and political commitment.

For measuring the quality, the indicators of the OECD may be used, which also apt for comparison.⁷⁰ As one of the working papers indicates, indicators of regulatory management systems quality serve to assess countries' regulatory practices. They can help analyze regulatory governance performance and diagnose success factors and priority areas for further reform. They facilitate a better understanding of what good regulatory governance is and the links between regulatory policies and outcomes like economic performance. As a complement to a detailed and qualitative analytical approach, regulatory indicators contribute to a systematic framework in which countries' performance and relative progress can be assessed.⁷¹

For instance, in 2007, the questions they asked covered the following:

- i) explicit regulatory policy;
- ii) linking regulatory policy and other policy areas;
- iii) planning of regulatory activities;
- iv) rulemaking procedures;
- v) communication of regulations;
- vi) choice of policy instrument;
- vii) compliance and enforcement;
- viii) use of public consultation;
- ix) use of regulatory impact analysis;
- x) reducing administrative burdens;
- xi) controlling aggregate regulatory burdens;
- xii) training in regulatory quality skills;
- xiii) central regulatory authority;
- xiv) parliamentary oversight of regulatory policy;
- xv) the role of the judiciary in regulatory policy;
- xvi) multi-level co-ordination mechanisms for regulatory policy;
- xvii) inter-governmental coordination on regulatory policy;
- xviii) regulatory review and evaluation; and

70. S. Jacobzone et al., *supra* note 1.

71. *Id.* at 7.

xix) indicators of performance, qualitative questions.⁷²

In the 2015 overview of indicators, they indicated methodology, systematic adoption, transparency and oversight, and quality control in three main areas: regulatory impact assessment, consultation (stakeholder engagement), and ex-post analysis.⁷³ Even though these indicators are essential for any comparative research on legislation in this regard, they offer a rather limited understanding of the legislative processes that states apply because they are unable to share detailed information about the national environment. To avoid false or misleading conclusions, more in-depth analysis and a comprehensive approach is needed, which is offered by the concept of the quality of legislation and the related approach of quality management of legislation that this paper proposes.

The holistic approach, including the examination of whether there is an implicit or explicit commitment toward better regulation, legislative processes, techniques, and tools that are available, may provide a more comprehensive assessment of the quality of legislation.⁷⁴ An input may also be an investigation into the motives of presidential veto and initiation of a constitutional or judicial review and an analysis of the reasons for an annulment decision delivered by a constitutional court or an invalidation judgment ordered by a court.

All these, obviously, presuppose a political will that strongly supports surveys that reveal all the factors mentioned above.

The first question arising from the above considerations is the exact meaning of better regulation commitment and the way we can detect that there is indeed such commitment. A formal declaration does not seem to be sufficient. In a legal system, the legislative power should deliver proper rules governing the legislative activity from the very beginning to the very end. A view should be taken in which legislation does not terminate at the publication of the law in the official gazette, but as being a *cyclic process*, where it concludes by the follow-up activities that results in corrective measures. Considering corrective measures may resume the entire process again. By implementing this view, certain soft and hard law measures should be present and applied efficiently. All these presuppose proper constitutional regulations on the main legislative organs and competences along with adequate rules on the legislative process

72. *Id.* at 13.

73. Christiane Arndt et al., *2015 Indicators of Regulatory Policy and Governance: Design, Methodology and Key Results* 14-20 (OECD Reg. Pol'y, Working Paper No. 1, 2015).

74. IMPROVING QUALITY OF GOVERNMENT REGULATION, *supra* note 15.

itself and other measures governing the very details of the preparatory phase that includes, inter alia, consultation, impact assessment, methods of reduction of administrative burdens, drafting, monitoring activities, employment requirements of drafters.

A legal measure has to respect the principle of legal certainty; it has to be predictable, clear, foreseeable, and etc. Therefore, it is a basic requirement that those involved in the legislative process familiarize themselves with the newest trends and best practices and be aware of the constitutional and legal requirements. To achieve this goal, learning and training need to be assured, monitored, and evaluated. Education and training of all actors – beyond drafters and legal-linguists who play a major role in a multilingual environment,⁷⁵ ministerial staff, including also those conducting impact assessments (e.g., MPs, NGO staff dealing with legislative issues,⁷⁶ citizens, civil society, and etc.) – involved in the legislative process may appear in different ways and methods. Requirements stipulated in a hard law instrument is expected to result in a stronger ‘obedience,’ but without a firm commitment to implement them and an awareness about its necessity, it may remain a mere political will.⁷⁷ Both academic teaching of legislation and training of drafters and ‘learning by doing’ and ‘training on job’ are basic requirements. The effectiveness of education and training is based on the quality of the teaching materials and trainers. The more professionals are involved in training, the better the quality of the training. It may also be advisable to organize trainings also for NGOs dealing with legislative issues.

Against this background, the indicators of quality of legislative process may be as follows:

- i) the measurement and analyzation of the political commitment toward better regulation policies;
- ii) the existence and proper implementation of adequate rules on legislation, including institutional and procedural regulations;
- iii) the employment requirements of a drafter;
- iv) the flux of the staff;

75. Robinson, *supra* note 5; Tímea Drinóczi & Barnabás Novák, *Linguistic Approach in Legisprudence: Terminology, Translation Studies and Databases*, 3 THE THEORY AND PRAC. OF LEGIS. 113, 113-29 (2015).

76. Ulrich Karpen, *Law Drafting and the Legislative Process: Outline of a Training Course for Law Drafters*, in THE LEARNING LEGISLATOR 7-15 (Luzius Mader & Chris Moll eds., 2007); Luzius Mader, *Logistic Training and Education in Switzerland*, in THE LEARNING LEGISLATOR 47, 52 (Luzius Mader & Chris Moll eds., 2007).

77. See Drinóczi, *supra* note 12.

- v) the training and the education;
- vi) the drafting process itself;
- vii) the occurrence, reasons, and results of political and constitutional vetos;
- viii) the decisions of the constitutional court or other judicial bodies on unconstitutionality or invalidity; and
- ix) the political reaction of the political decision-maker to these rulings.

From this holistic perspective, if the process is flawless, a particular piece of legislation may be assessed considering, for example, its legal, political, economic or social effectivity, soundness in substance, intelligibility, and efficiency,⁷⁸ or its vagueness or contradictory nature.

VI. Summary

This paper asked whether there is a quality assurance or quality management of legislation in place in a constitutional democracy and how the quality of legislation can be measured. To answer the research question, first, the development of quality management applied by the public administration has been briefly summarized. Second, it has been found that the constitutionality of laws, which is one of the aspects of the quality of legislation, is assured by the entire constitutional system (holistic view). Against this background, it is concluded that quality assurance and quality management of legislation require both a holistic or functional and an organization-oriented approach, which only resemble the quality management systems that the public administration applies. The quality assurance of legislation requires the convergence of these approaches, which are embedded in the context of a constitutional democracy. As a result, more active involvement in ordinary and constitutional courts are required in terms of stressing the importance of rationality in lawmaking. The organization-oriented approach necessitates a legally streamlined legislative process and the existence of embedded procedures because they would potentially be able to increase the probability of producing quality laws and a quality legislative process. Another essential factor is the organizational and political commitment. Without it, none of the requirements of a quality management system could be met. These, borrowing from the TQM system,

78. Carter, *supra* note 6, at 48.

are: customer is the ultimate determiner of quality, quality should be built into the product early in the production process, quality results from people working within the system, quality requires continuous improvement of inputs and processes, and quality improvement requires strong participation. In measuring the quality, different indicators stemming from the functional and organization-oriented approach or approaches developed by various organizations may be used.

Thus, this paper also finds that the application of the underlying idea of quality management systems exists at the level of the whole legal system without, however, standardizing the legislative process. Another finding of this paper is that quality management system is used in governance. The former (legal system) and the latter (governance) calls for controlling and monitoring procedures regarding the quality of laws and the legislative process. The quality of legislation may be underpinned by applying indicators relevant to the legislative cycle.

Therefore, finding of works on public administration may only have limited impact. Another reason of limited applicability is that TQM or CAF focuses on the operation or management of an organization and not on the process overarching state organs and agencies. However, as scholarly literature indicated, there has been an excessive expansion regarding the applicability of quality management systems, first, in the private sphere and then in the public sphere. The enlargement of this idea of quality management may generate an aspiration towards further studying the adaptability of quality management systems in another sphere: the legislative process.

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