Good Governance Through Transparent Application of the Rule of Law

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Abstract

Good government is a better way to exercise political power with a focus on transparent and participatory procedures. Rule of law is – next to democracy – a constituent element of the modern constitutional state. Rule of law is based on separation of powers, namely an independent judiciary, and individual and social freedom, as vested in a Bill of Rights. Modern government very often lacks transparency due to numerous complicated and unclear laws, which are confusing, remote to the people and difficult to accept. Democratic trust in government, however, is based on transparent legislation as a yardstick for administration and adjudication.

The paper analyzes standards of good legislation, as developed by legistics as a scientific approach and instrument of practice. It unfolds areas of interests, research and teaching law drafters and other practitioners. It develops five criteria for better and transparent legislation. Finally, it investigates means and tools how one can keep the body of law 'up to date' by amending and revising the system of norms.

A. Introduction: After and Before the Treaty of Lisbon

In June 2008 the people of Ireland in a referendum rejected the new Treaty for the European Union of Lisbon of December 2007. A new approach has to be taken to adopt a constitutional basis for the Union. In a similar procedure Ireland has been the tripwire for the Treaty of Nice of 2002, which had been rejected by a negative referendum in June 2001. This could be converted into a positive one in October 2002 and the new Treaty became law in 2003. There is no need to speculate on the reasons of the Irish people to vote against the Lisbon-Treaty. Certainly the lack of transparency of European Law and the unclearness of the bureaucracy in Brussels as well as the limited participation possibilities for the citizens of the Union contributed to the meagre results of these referenda, not only in Ireland. There is a deficit of clarity, which is an essential element of the rule of law, as well as of instruments for the citizens to influence European policy and agenda, which is a prerequisite for a vital democracy. Europe is not transparent and close to the people, but confusing, remote and difficult to accept. No wonder, since the new EU-Treaty covers 55 articles and the adjacent Treaty on Procedure of the Union Organs 358. The European Community, the regulations of which are directly

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binding on member states and European citizens, since its foundation in 1957, released 997 Directives and 2,605 Ordinances. The European body of law, the so-called *acquis communautaire*, covers some 130,000 pages of legal provisions.

Today, after the Irish vote, the Commission seeks – similar to the situation in 2001 – to open the political process of the Union to include people and organisations of civil society into the decision making process and implementation of its results and to improve clarity and simplicity of the political machinery and its functions. This should lead to good governance instead of malgovernment. 'Good government' – the term as used by the World Bank and the OECD – is a better way to exercise political power with a focus on transparent and participatory procedures. In a separation of powers – rule of law – state good government is good legislation, good administration and good judiciary. This paper deals with the first power and looks at better legislation. Regulatory reform (OECD) intends to reduce the quantity of norms and improve regulatory quality, that is enhance the performance, cost-effectiveness or legal quality of regulations and related government formalities. Regulatory reform activities have the potential to bring about immense positive effects on society, market and government. It contributes to improving competition; innovation, growth, transparency, participation, development in all sectors. To reform regulatory mechanisms is a permanent challenge for all modern nations, namely developing states and states in transition after 'silent revolutions'. Reform activities change structures, institutions, behaviour and the minds of politicians, administrators, judges and – in a democracy in the first place – the people.

This paper[1] will discuss these issues as follows. First, in section B it discusses the rule of law- and democratic requirements for better regulation; second it gives a diagnosis of the current problems in regulation, more closely legislation (section C); then (section D) it tries to develop some perspectives for therapy: how to attain better regulation; and finally (section E) it looks at instruments to keep the body of law qualified and transparent.

B. Better Regulation, Rule of Law, Democracy

Regulation of all state action by constitutional and statutory law or sublegal provisions means "government of law, not of men", the latter in the understanding of arbitrary, discretionary decision-making. This is the essential notion of rule of law as one leading principle of our constitutions. There are libraries full of definitions and descriptions of the concepts of 'rule of law', '*état de droit*' and '*Rechtsstaat*'. For the purpose of this paper, it seems appropriate just to follow a definition used within the UN which is, as far as one can see, not objected by anyone. It reads:

> The 'rule of law' refers to a principle of governance, in which all persons, institutions and entities, public or private, including the state itself, are accountable to laws

[1] Background material of the 3rd ReSPA (Regional School of Public Administration) Conference of OECD/SIGMA (Belgrade, 23-24 September 2008).

> that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights, norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, fairness in application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.[2]

This definition covers all legal institutions, which might be regulated in national constitutions differently, although following the same standards. The legislator has to secure human and citizens' rights. Due process and fair procedure imprints all administrative actions and court decisions. The rule of law has to create confidence and trust. If the citizens do not have confidence, they will not accept the role and function of institutions and acting persons; and if the institutions and acting persons are generally not accepted, then they will not have the authority to fulfil their tasks. Therefore the building-of-confidence point should be seen as a separate and not less important sub-item of the efforts to improve the rule of law. In fact, all efforts to bring the statute book in line with the rule of law, and to make the office holders apply the law correctly and on the basis of ethical conduct, should always, and maybe primarily, be seen as a necessary precondition for regaining trust.

Trust is based on clarity, simplicity, understandability, reliability of law and that states' actions are applying and obeying the law strictly. Only then law is acceptable to the people and is accepted. This is a necessary prerequisite for implementing and enforcing law. Correct and impartial interpretation and application of law by administrative agencies and the courts must be guaranteed. Independent courts must not only be accessible to everybody, but shall control executive action, and constitutional adjudication is called upon to oversee that the legislative branch of government stays in line with the constitution.

Participation of the people in the common agenda has been listed as an element of the rule of law It is as well the core of democracy. Participation strengthens rights and freedoms. Participatory rights include more than just elections. They cover direct participation in local government, autonomous bodies, like chambers of commerce, lawyers' representations and universities. Participation takes place in hearings, access to public information and petitions. Forms of direct involvement of citizens in public affairs are developed. All forms of bottom-up decisions add to the interest of the individual in public affairs and make them effective. They support creativity and foster integration. The people are the sovereign, and the structure of every decision-making process is bottom-up, not top-down.

Both human and civil rights and participation belong equally to rule of law and democracy. It becomes clear that the modern type of a constitutional state, based on a constitution, is an amalgam of both basic elements. The rule of law-democracy is the most recent, most convincing form of a free democratic order.

The constitution is the basic law of the land. It is not un-endangered and needs to be supported and protected by everyone, not only public institutions. Next to rule of law and democracy the constitution may include social and welfare-

[2] Background material of the 3rd ReSPA (Regional School of Public Administration) Conference of OECD/SIGMA (Belgrade, 23-24 September 2008).UN Doc. S/2004/616, no. 6.

state elements and the design of a federated state system and autonomy of municipalities. Statutes are a link between democracy and rule of law. Therefore they are not only instruments for control and setting limits but also for steering developments of society or giving mandates to administration. Statutes and delegated legislation as authorized by statutory law are the daily bread of a rule of law-state. The law-making process should be guided by some principles, as being vested in the constitution. Among them are: necessity of regulation, proportionality, transparency, clarity, understandability, accessibility, simplicity, consistency, legality, stability, no retroactivity. Because civil society is the engine of change, it should be actively involved in law-making, including forms of direct democracy, such as referenda. They must be in conformity with national, supranational and international human rights standards and principles. Thus the democracies world-wide are linked with each other.

All constitutional and statutory legal principles as mentioned are EU-standards and rules of best practice for all rule of law-states. They could and should undertake – as well as international actors – some more visible global leadership to identify rule of law issues, standards and best practices suitable to reach the international community. To this end it is crucial to ensure constant communication, dialogue and coordination between actors involved in promoting the rule of law.

C. What is Reality in Regulation and Legislation – a Diagnosis

The impact which legislation has on rule of law-practice and democracy in nations could not be overestimated. It depends on quantity and quality of laws. Evaluation shows, however, that these criteria of good legislation, and hence good government, are not adhered to sufficiently. We suffer from law inflation and deteriorating quality of norms. "If it is not necessary to make a law, it is necessary to make no law" (Montesquieu). This maxim is impardonnably disregarded. In addition to the number of EU regulations, the quality of laws of an average EU member state should be mentioned, for instance the Federal Republic of Germany. On federal level currently one counts 2,197 laws, covering 46,777 provisions; moreover, 3,131 pieces of delegated legislation with 39,197 provisions, altogether some 86,000 provisions. Since Germany is a federation, on the state level a similar number of legal instruments is in force. Of course, one also has to take into consideration a considerable number of local statutes. There are reasons for this torrent of laws. The globalized and industrialized technical world requires reliable legislation. The social and welfare state needs equal protection, provided by the law. The active citizen and lobbies are pressing on drafting laws to take care of their interests and finally the courts demand legislation to base their decisions on. No wonder that all modern countries are looking for instruments of reducing the number of laws and the quality of legislation is very often unacceptable. The hastily working legislator produces pieces of law which

are unclear, contradictory, defective, incomplete; they cover omissions and errors. The paragraphs of modern law gain constantly in length and are more and more detailed. The sentence of Pythagoras covers 24 words, the Ten Commandments 67, the American Declaration of Independence 300 and Article 19a of the German Income Tax Law 1,863 words.

"Bad laws are the worst sort of tyranny" (Edmund Burke). Redundant and inflationary legislation, producing less qualified laws, has negative consequences for the rule of law. The body of law and the single statute are neither transparent nor digestible. Knowledge of the law is, however, mandatory in a rule of law-democracy. Real and effective knowledge is no longer realistic, neither for the man on the street nor for the administrator and even the deputy. Legal theory and practice helped out by establishing the assumption that the individual could know the law. The current situation of legislation transformed that useful assumption into a fiction. This hurts the rule of law. Legal security for the citizen may be endangered by overregulation, just as through an unclear and confusing system of law. Defective law may lead to arbitrary decisions, both of the executive and the courts, and this is an infringement of the principle of equality before the law.

D. How Do We Improve and Publish Legislation – Some Points of Therapy

A good diagnosis is a prerequisite of any therapy: How can we reach better regulation, improve legislation? First of all, we have to curb law inflation; deregulation and de-bureaucratisation are needed. The goal should be to reduce quantity, to keep the body of law as small as possible, but not too small in order to protect the regulatory power of the state. Manchester-Liberalism is not what we want. Second, we should take measures to improve the quality of legislation, strive for better legislation. The statute book – if understood and interpreted properly and applied in a reliable manner – is the most important field when improving the rule of law. This requires devoted parliamentarism and professional staff in legislative institutions, qualified civil servants, prosecutors and judges. Quality of legislation depends, of course, on the legal environment of drafting and implementing the law – sort of culture of law and state –, which is different from nation to nation and certainly dependent on the state's experience with rule of law-instruments and organisation and general development of society, economy and governance. Five criteria may, however, be applied to every piece of legislation, wherever it is drafted. These are: level of legislation, procedural quality of drafting, formal quality of the product, its substantive quality and the costs of implementation and enforcement if needed.

The first question is, whether the legislator regulated at the proper level. In supra-national entities, like the EU, the highest level should not regulate on matters which could be regulated at the lower level of member states more appropriately and effectively.

And national parliament – in a federative or decentralised system – must not regulate when states or entities of the lower level could better deal with the issue at stake. The same is true for the relation of state and local authorities as well as autonomous bodies. It is a liberal notion, but an important part of constitutional rights and freedoms, that public authorities, on whichever level, should not regulate on matters which are best dealt with by individuals. The idea of choice of the best level may be called 'subsidiarity principle' and even be laid down in constitutions – like in the European Treatise –: it is simply a structural instrument of 'better regulation', a most effective one.

Second, the procedure of legislation is prescribed in detail in national constitutions and the laws. In practice, it is often very hectic. Political pressure pushes drafts through the parliamentarian machinery, lacking time to deliberate and work on regulatory details, legal terms, language, and transparency. As a result, many laws are inaccessible for the citizens and even experts. The legislator hardly finds time nor has the capacity for good legislation and consolidation. As a motorised legislator, he has to amend the law and repair errors.

Third, the formal quality is often lacking. The language may be difficult to understand. The order of sections and articles is misleading. Transparency falls short, and cross-referencing is used more often than necessary.

Fourth, the main criteria for substantive quality of a law are efficacy, effectiveness, efficiency and stability. To check the efficacy of a law means to look at the intent of the legislator and whether it is sufficiently achieved by the norm. The target of a law prescribing the use of seat belts in cars is to reduce fatal accidents and severe injury to persons. Experience shows that this goal is achieved to a greater part by the law. A law is effective, if it is observed and accepted by the addressees. Effectiveness is compliance with the law. The use of seat belts is obeyed differently in different countries, but as a whole it seems to work. A law is efficient if it stands the economic rationality test. It works on a good cost-effectiveness relation, if it produces maximum effects with given costs or produces a given product at minimum costs. The application of this quality criterion requires an evaluation of alternatives. More efficient alternatives deserve precedence before more costly ones. Stability, finally, tries to reduce the probability of amendments after a short period of time. This may be reached by far-reaching regulation on the basis of good prognosis, by flexible regulations, which include general clauses rather then strict and detailed solutions, and by entitling administrators to apply discretion.

Five, costs of the law do not imply primarily charges which are the intent of the law, like tax laws, but burdens of administering legislation which may be reduced in implementing the law. Laws very often cause bureaucratic burdens for enterprises, citizens and administrative bodies themselves: collecting statistical data, applying for a licence or subsidies. Legistics assist in improving legislation alongside the quality-standards as mentioned before. Scholars and practitioners during the last decades in all EU member states and in European Parliament and Commission worked on developing legistics as an interdisciplinary approach to better legislation. Today as European standard one may delineate six sections of legistics: analysis of law, tactics of legislation, methodology of law, techniques

of drafting, management and evaluation of law. Analysis covers theory of law and state, constitutional and statutory law, sub-legal norms, in particular delegated law, bye-laws, and the hierarchy of norms. Tactics of legislation looks into organisation and procedure, the work of parliament and government, and hearings. Methodology of law deals with substantive issues and content of the law. How do we get 'good', 'just', effective laws? Techniques of legislation cover formal issues, the format of the law, the legal style, the system, the dogmatic design, subdivisions and articles, language and linguistics (in countries with more than one official language). Management of legislation is vital in democracies, which require communication with people, with organised interests, the media. Functions of laws have to be looked at as well as best practice of inaugurating projects of legislation. Quality of legislation is subject to evaluation, be it in establishing the draft (prospective, ex-ante-evaluation), in the governmental and parliamentarian procedure (concurrent evaluation) or monitoring the effects and cost of law (retrospective, ex-post-evaluation) when enacted, implemented, enforced.

All these issues are part of the rule of law, which requires a necessary, proportional and qualified piece of legislation. Indispensable elements of the rule of law is the publication or norms. Secret, hidden and/or unknown laws are not admissible in a rule of law-democracy. Nobody can expect obedience to a law to which the addressees do not have access. In a democracy the people are the legislator – directly or via representative parliamentary decisions. The people must know what, how, and why it regulates on a matter. Publication by the government is vital for acceptance of the law, a prerequisite for implementation and enforcement. On the side of the citizens, public knowledge of law is the basic instrument for accountability of state organs, foreseeability of state action and exclusion of arbitrariness, monitoring and controlling by courts and the public. Only a clear and understandable norm provides legitimation to interfere into human and civil rights and freedoms of the people. It enables the individual to critically participate in good government as an element of public opinion. Ignorance of the law as a result of unclear, complicated legislation is disadvantageous to less educated citizens and violates the principles of equality before the law and of the social state.

Publication traditionally takes place in the official gazette. It is the reliable authentic source of law. Regulations which are not in the books are not in the world! Today, however, some states, additionally or exclusively, publish electronically. If you have access, you may download. This causes some problems in view of the digital divide. Some citizens do not master the new media and thus may be cut off from the public information of laws which is unacceptable under the rule of law. This problem may fade out for the younger, but has to be taken into account currently. There is a problem of level of understandability of the law. Laws which are addressed to everybody – traffic law, law of contract, penal law – must be clear and easy to perceive. Since modern law in some fields is, and must be, rather complicated, detailed and technical (e.g. law of nuclear energy, security of aircrafts, vessels and cars), however, one discusses whether the legislator should adopt two versions of a code. One version could be addressed to the experts,

another could be drafted in a more readable popular way, as a sort of 'folks draft'. There are, of course, no arguments against an official manual for understanding a law, explaining, giving examples, as a sort of a short treatise. Not at least in view of binding the executive and the courts without causing problems of interpretation, one needs, however, one authentic version, which is adopted by parliament.

All the efforts for better legislation should be broadly communicated to the public that way. The money for creating public awareness and for public support is very well invested. It serves not just information purposes but will have the additional effect of confidence building; and, finally, it also may help to make easier available all the money necessary for the measures to improve the rule of law. As long as the rule of law is regarded as a soft topic or a topic for Sunday speeches in the beneficiary country (and in the donor community as well) there is not much hope for improvement. It has to become a hard point in everyday business, including mobilising the necessary funds: resources for sustainable investment in justice have to be made available.

Drafting the law in the best available manner and interpreting and applying it correctly, equally for all, uninfluenced through outside pressure or economic interest, be it personal or general, is far more than just knowing the law and knowing the principles of professional ethics and good conduct. The values just addressed need – if not generally observed in a bad tradition of mismanagement, misconduct, corruption, lack of control, and dysfunctional governance – to be implanted through educational programmes. However, these educational exercises in professional standards and ethics, indispensable as they are, most probably will not yield results if not, at the same time, beyond specific professions, also a general atmosphere of lawful behaviour and good conduct is created and becomes the general attitude of office holders. Here again a lot is to do and a lot of pressure internally and from the outside is necessary. As long as politicians do not accept the values it is difficult to expect the civil service, the prosecutors or the judges to fully comply with these standards. This, undoubtedly, is another aspect of improving the rule of law where experts need the help of politicians and the public to generally establish the values and make them principally accepted. Therefore, the building-of-confidence point should be seen as a separate and not less important sub-item of the efforts to improve the rule of law. In fact, all efforts to bring the statute book in line with the rule of law, and to make the office holders apply the law correctly and on the basis of ethical conduct, should always and maybe primarily, be seen as necessary preconditions for regaining trust.

The common European history and the history of European countries show that democracy and the main features of the rule of law-concept usually have made their way into the statute book from bottom to top, not from top to bottom. Enlightened citizens, fully aware of their rights and generally applied standards, often have had the function of the moving force for the improvement of the rule of law. Free press and media (also free speech of individuals, of course) are not only necessary to spread information. Analysis and comment are essential for public opinion as well as for transparency. In fact, without free press and media there is no real democracy and there is no real rule of law. In the same way as the three powers of government need the proper balance among themselves, it is

freedom of expression together with free press and media which balances against all three powers of government. Free press and media, therefore, are not just a goal in itself; they also are a prerequisite for the rule of law. The improvement of the rule of law must, consequently, include measures to create or stabilise free press and media.

To sum it up: written law can only become law applied by the entire society when the general public is informed and educated about the law and the possibilities of implementing this law, and when the members of the public are encouraged to avail of the legal instruments at their disposal.

E. How Do We Store and Revise Legislation – Some Points of Adapting and Consolidating the Law

Clarity of law and getting accustomed to it may be spoilt by amendments, which then call for revision of the text, consolidation and other measures, to keep the regulation qualified and transparent. Stability of state functions, dependence of government of the law, reliability of implementation and effective decisions on disputes about unclear meaning of the law are vital factors of stability. The law, however, changes if time passes and the field of application of the law itself is changing. The law must provide stability and flexibility at the same time. Stability and flexibility are important facets of qualified legislation. Since social and governmental conditions are subject to dynamic changes, the law needs to be adapted to new situations. This is where questions of interpretation and application of the law occur. It is up to the courts to adapt the law by interpretation. "The courts are bound by the law, but say, what it is" (Oliver W. Holmes). If interpretation comes to an end and may not be over stretched, the amending legislator comes into play. Whether and how often this happens, is not at least dependent on the quantity and quality of law. The more detailed, the less flexible in wording and meaning, the more often the legislator must help out.

In modern parliamentary activity the production of amendments by far outnumbers the adoption of new laws. In evaluating a two-year-output of a parliament (for instance, the German Federal Parliament, 2005-2007) one finds 698 statutes and sub-legal provisions, namely delegated law on the basis of statutory authorization: 467 pieces are amendments, 164 are new laws, the remainder are other. The decision that an amendment of a law is necessary is usually taken on the basis of ex-post-evaluation of the law, that the result is partly outdated, demonstrates deficiencies and errors, causes contradictory actions of administrative bodies or deviating litigation of courts. After the law has been adopted by parliament and implemented, it is very important that the house monitors interpretation and application of its product. Various institutions assess by their daily work the implementation of a law, its quality, efficacy, effectiveness and efficiency. Courts may find that the law is unclear, not just, overlooking important facets of the matter. Lawyers and administrators may find deficiencies. Business may find the law to be very costly. University teachers may suggest

alternative regulation. The media may report of scandals which have not been prevented by sufficient legislation. It is important that government and parliament collect this information and rethink possibilities of improving the law. Deputies should share information from petitioners and voters in their constituencies with colleagues and government. Parliament may enhance ex-post-evaluation by including a provision which holds government responsible to report to the house after a given period of time, which observations have been made in the course of implementing the law. The result of a retrospective evaluation may be to abrogate the law, to amend it or to republish it because it is unclear after many amendments.

Amendments are additions, deletions or modifications of law. There are different legislative techniques to do so, from changing single words or numbers to repealing or replacing the old provisions, consolidating new ones and re-enacting old and new provisions. In the first case amended and amending law are only understandable when read together, in the second the amendment is understandable as a unit. A law may abrogate or invalidate another law. This may be an instrument to delete outdated law, to exclude parallelisms in legislation, to remove discrepancies and ambiguities. In general, abrogation must be expressly stated and shall list all provisions subject to abrogation. Where a previously amended law is being abrogated, these amending laws must be abrogated as well. The abrogation may be accompanied by adoption of a new subject regulation.

In cases of unclear regulation of a matter, namely if the principal law has been amended more often, a repeated publication or new adoption of the law may be advisable. This is consolidation of the law. Since it is an important obligation of the legislator and the executive to keep legislation 'under control', to regularly re-examine the body of law, to keep quality- and clarity-standards, repeated adoption of the law or republication are useful instruments of consolidation. The body of law must be kept consistent. Earlier legislation should be revisited and expressed in a clearer manner to enable it to be coherent with modern legislation. Consolidation may review the whole stock of legislation permanently or after a period of time subject by subject. Measures of electronic information handling as part of e-government enable parliaments and the executive to screen the body of law completely. Consolidation may restructure or rewrite the law. It may be codification of large segments of laws (e.g. social security law, law of transportation by air, on vessels or road). It may restate provisions or recast the piece of law. Basically, consolidation without impact on the content of the law, limited to restructuring and deleting duplications may be done by the executive without special authorization of the legislature. Often parliament, however, in a law amending an older law, may at the end explicitly authorise government to republish the whole law, including the amended provision. This, of course, adds to the clarity of the law. The executive, to go one step further, may authorise to consolidate legislation by delegated legislation. This includes minor changes in context and subject matter. To avoid all constitutional doubts with consolidation, it may result in adoption of a consolidating statute, adopted by the house. In many states a special section of the gazette is reserved for "collection of consolidated law."

It is obvious that consolidation as updating of the law adds to the reliability of the text. It may be used to adapt content and language to supra-national European standards, to uniform "one European law" of a subject as a result of intensive comparative work. Consolidation reduces problems of interpretation and implementation of law. It simply cuts short the quantity of law as being in force. The legislator may enact that only laws as included in the collection of consolidated law is in force and invalidate all other laws. This ends long journeys into libraries and electronic adventures to find the actual law – an indispensable prerequisite of consolidation is nowadays computer-assisted – collecting, clarifying and structuring the older law.

By 'guillotine-legislation' parliament decides that all legislation enacted prior to a fixed date is invalid. For new law 'sunset-legislation' helps to keep law under control. In this case an act of legislation states that the law expires at a prefixed date, unless it is, as a whole or in part or as amended, prolonged by the legislator. As a sort of 'wood-hammer' instrument parliament or government determine that a new draft of a statute or delegated legislation may be initiated only on the condition that one or more old ones are invalidated.

Nowadays in most governments a special unit is responsible for consolidation. Here and there are independent bodies – like the National Regulatory Control Council linked with the German Federal Chancery – that monitor new legislation or laws as enacted in view of necessity and cost-effectiveness in order to reduce administrative burdens and cut 'red tape'.

F. And Finally

Four remarks may sum up this paper. In the light of development of societies and states, the rule of law and democracy are closely linked with each other. Quantity and quality of law are dependent on the level of economic wealth, social order, established rights and freedoms. A qualified legislation depends on the level of education and experience of legists and politicians as legislators. Good governance, namely good legislation, has to take into account the level of development, education, capacity and willingness of people as the addressees of the law. Which is, thirdly, the main field for standards of better regulation and legistics to prove their strength? For countries in development, one should say: sometimes less is more. Legistics should encourage legislators to make few laws, but to ensure that they are effectively implemented. For all democratic rule of law-states, be they more or less developed, a bit of good advice could be: less quantity, but more quality! The legislator should curb law inflation and make it easier for people to know and understand the law. Only then they are in a position and can be expected to accept and implement the law. And finally, drafting and legislating must be done as precisely and carefully as possible, making use of all scientific instruments of legistics and following all jointly developed standards. However, neither politicians nor drafters nor the deputies and the addressees must forget what the Founding Fathers of the US Constitution in 1787 said: "Let us be guided by experience, because reason might mislead us!"