

Effectiveness of the Constitutional Principle of Legality in the Administrative Management of Public Institutions

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HOW TO CITE: ABSTRACT:

Liseth Paulina Cajilema Tobar, Enver Augusto Aguirre Macas, Klever Rumaldo Caguana Chimborazo, Edwin Fabricio Vaca Barrionuevo (2026). Effectiveness of the constitutional principle of legality in the administrative management of public institutions.

International Journal of Special Education, 41(21s), 1037 - 1052

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The irregular application of the principle of legality in public institutions represents a problem for legal certainty, because decisions without competence, sufficient motivation or respect for the procedure can affect the rights of the administered and weaken trust. With the above, the objective of the research was to analyze the effectiveness of the constitutional principle of legality in the administrative management of public institutions, in order to evaluate its practical application and its impact on legal certainty and respect for fundamental rights. The study adopted a qualitative approach with the support of quantitative techniques and a bibliometric design. The information was obtained from scientific articles located in Redalyc, SciELO and Google Scholar, selected according to criteria of relevance, timeliness and editorial quality. The results showed that Ecuador has a sufficient constitutional and legal framework; however, deficiencies persist related to insufficient motivations, failure to meet deadlines, regulatory dispersion, limited training and unequal application of administrative criteria. It was also determined that the observance of legality favors transparency, institutional efficiency and the protection of rights. It is concluded that its effectiveness requires translating the rules into uniform, motivated, timely and subject to control administrative practices.

Keywords: principle of legality; administrative management; public institutions; legal certainty; fundamental rights.

Introduction

The constitutional principle of legality is one of the fundamental pillars of the constitutional State of rights and justice, as it requires that all actions of the public administration be subject to the Constitution and the law. However, in the

administrative practice of various public institutions, weaknesses persist related to excessive discretion, non-observance of legal procedures and deficient reasoning of administrative acts, which generates legal

uncertainty, violation of fundamental rights and loss of public confidence in public management. This problem is aggravated when the internal and external control mechanisms are insufficient to guarantee effective compliance with the principle of legality.

The actions of public institutions find their foundation and their limit in the constitutional principle of legality, according to which all authorities must exercise only the powers conferred by the Constitution and the law. This mandate does not constitute a legal formality, but a guarantee aimed at protecting people against the abuse of power and preserving the legitimacy of state decisions. Escala (2023) argues that legality subjects administrative actions to the legal system and allows for their subsequent judicial control, while Reyna Zambrano (2023) explains that legality extends this duty to include the Constitution, international instruments, jurisprudence, and general principles of law. Consequently, administrative management will be legitimate when institutional decisions respect the competence, procedure, motivation, and public purpose provided for by the law.

However, the constitutional recognition of legality does not in itself ensure its effective application within state entities. The inadequate interpretation of the rules, the insufficient motivation of administrative acts, the lack of legal training, and the arbitrary use of discretion can lead to decisions contrary to the rights of those administered. In this regard, Salazar and Herrera (2025) identified that political pressure, deficiencies in organizational culture, and the limited training of public servants constitute barriers to integrity and transparency. In turn, Crespo and Sánchez (2024) found that some of the officials consulted perceived non-compliance with the principles of effectiveness and efficiency in institutional procedures.

In this context, examining the effectiveness of the constitutional principle of legality requires passing the verification of the existence of norms and assessing whether they really guide decisions, procedures, and the use of public resources. Therefore, legal effectiveness is manifested when the authorities act within their powers, justify their resolutions, respect due procedure, and

allow administrative or judicial control of their actions. Reyna (2023) warns that discretion is only compatible with legality when it responds to criteria of reasonableness, equality, good faith, and public purpose; otherwise, it can become arbitrary.

With the above, the objective of the research was to analyze the effectiveness of the constitutional principle of legality in the administrative management of public institutions, in order to evaluate its practical application and its impact on legal certainty and respect for fundamental rights. To this end, it is intended to examine the constitutional and legal framework that regulates the principle of legality in the administrative action of public institutions. After that, the main deficiencies and challenges in the application of the principle of legality within administrative management processes will be identified. Finally, to evaluate the impact of the observance of the principle of legality on transparency, administrative efficiency and protection of the rights of the administrated.

The principle of legality is one of the essential foundations of the constitutional State, because it subjects the exercise of public power to the legal system and prevents the authorities from acting according to personal criteria. In the administrative sphere, this principle requires that each decision be supported by a previously attributed competence and pursue the purpose established by the law. Escala (2023) points out that legality obliges public institutions to subject their actions to the law and makes it possible for the courts to examine acts that may affect citizens. Therefore, the Administration does not have a freedom comparable to that of individuals, since its servants can only execute what the legal system allows them to do within the framework of their attributions.

From a contemporary perspective, administrative legality is not limited to literal compliance with a legislative provision. Its content incorporates the Constitution, international instruments, jurisprudence, general principles of law, and the rules that regulate each institutional activity. Reyna (2023) argues that the principle of legality represents an extension of classical legality, since it obliges the public administration to respect the

legal system as a whole. This difference is relevant because an action can formally conform to a law and, at the same time, violate constitutional rights, disregard binding precedents, or depart from values such as equality, reasonableness, and good faith. Consequently, the analysis of legality must consider both the regulatory empowerment and the material compatibility of the decision with the rights of individuals.

In Ecuador, Article 226 of the Constitution establishes that State institutions, their agencies, dependencies and servants shall exercise only the competencies and powers conferred by the Constitution and the law. This provision contains a positive link between the Administration and the law, because the authority requires an enabling norm to act. In turn, Article 227 defines the Public Administration as a service to the community and mandates that its operation respond to the principles of effectiveness, efficiency, quality, coordination, transparency and evaluation. In this way, legality is not opposed to efficient management, but establishes the legal channel within which institutions must achieve their objectives and meet collective needs.

For its part, Article 14 of the Organic Administrative Code recognizes the principle of legality and provides that administrative action is subject to the Constitution, international instruments, the law, principles, applicable jurisprudence, and the Code itself. According to Reyna (2023), this normative recognition strengthens the constitutionalization of Ecuadorian administrative law, since the validity of a decision no longer depends solely on its conformity with ordinary legislation. The authority must also prove that its action respects the normative hierarchy, protects the rights of the administrated, and responds to a legitimate purpose.

The effectiveness of the principle of legality refers to its ability to guide the actions, decisions, and procedures of public institutions in a real way. It is not enough for this principle to appear in the Constitution or in administrative regulations; its effectiveness requires that the authorities apply it in institutional planning, the provision of services, public procurement, the administration of human talent, the control of resources, and the issuance

of administrative acts. Crespo and Sánchez (2024) explain that compliance with administrative principles is directly related to the quality of procedures and the achievement of institutional purposes. Therefore, legality becomes effective when it is reflected in timely, reasoned, transparent decisions that are in line with the attributions of each entity.

For the purposes of this research, the effectiveness of the constitutional principle of legality can be examined on the basis of five elements: 1) competence of the authority, 2) observance of the procedure, reasons for decisions, 3) respect for rights, 4) existence of control mechanisms. Competence makes it possible to verify whether the public servant had the authority to intervene; the procedure ensures that the decision is adopted in accordance with the established stages; the motivation sets out the legal and factual reasons that support the act; respect for rights protects the person concerned against abuse of power; and control makes it possible to review actions contrary to the law.

Competence is the first requirement of legitimate administrative action, because it determines the subject matter, territory, time, and hierarchical degree within which an authority may exercise its powers. When a public servant adopts a decision outside of these powers, the act lacks a valid legal basis, even if it pursues an institutional purpose. Zambrano (2026) argues that the control of legality must verify the integral legality of the act, its motivation, and its correspondence with the requirements defined by the Organic Administrative Code.

Compliance with the procedure represents another indispensable component, since legality not only depends on the final content of the decision, but also on the path used to adopt it. Notification, access to the file, the presentation of evidence, the right to contradict and the possibility of challenging allow the person concerned to participate and defend his or her interests. Rojas (2023) clarifies that the existence of an administrative defect reveals a discordance between the act and the legal system, although the consequence will depend on the seriousness of the defect and its impact on the rights of the affected party.

Motivation, discretion and control of the administrative power

Reasoning is an essential guarantee of the principle of legality because it obliges the authority to explain the rules, facts, and reasons that justify its decision. A reasoned resolution allows the citizen to know why the Administration accepted or rejected a request, applied a sanction, or adopted a measure that affects their rights. In addition, it facilitates subsequent control by the institution itself, the oversight bodies, and the judges. Rojas (2023) explains that the form of the act must communicate its content in an understandable way and demonstrate its adherence to the corresponding legal requirements.

Legality also delimits the exercise of administrative discretion. This power appears when the legal system allows the authority to choose between several legally admissible alternatives to address a specific situation. However, discretionality does not mean the absence of limits or authorization to decide according to personal preferences. Escala (2023) states that the decision-making margin of public institutions must respond to the general interest and remain subject to judicial control.

Impact of legality on the quality of public management

The effective application of the principle of legality has a direct impact on the quality of administrative management, because it establishes clear rules for decision-making, reduces uncertainty, and facilitates the responsible allocation of public resources. An institution that defines competencies documents its procedures and gives reasons for its resolutions reduces the risk of errors, duplication of functions, and conflicts with those administered. On the other hand, the arbitrary interpretation of the rules can lead to nullities, litigation, delays, liability of public servants, and loss of state resources.

The relationship between legality and administrative efficiency must be understood from a complementary perspective. The former determines the limits and conditions of public action, while the latter makes it possible to establish whether institutions achieve their goals

within that legal framework. It would not be admissible to classify as effective a management that obtains results through the violation of due process, the overstepping of powers or the disregard of rights. Similarly, mechanical attachment to unnecessary formalities does not ensure good administration when it causes unjustified delays or prevents citizen needs from being met.

Methodology

This study adopts a qualitative approach with the support of quantitative techniques, aimed at the bibliometric and legal analysis of scientific production related to the effectiveness of the constitutional principle of legality in the administrative management of public institutions. The qualitative component allows interpreting the doctrinal, constitutional and jurisprudential foundations that regulate the actions of the authorities, while the quantitative component facilitates the identification of authors, publications, citations and recurring themes.

To compile academic information, the Scopus, SciELO and Redalyc databases were consulted, as well as Google Scholar as a complementary engine. The selection of these sources responded to their coverage of legal journals and publications related to constitutional law, administrative law and public management. Likewise, the normative analysis was based on official sources, including the Constitution of the Republic of Ecuador, the Organic Administrative Code and the regulations related to the functioning of the public sector.

The search strategy used terms directly linked to the object of study: "constitutional principle of legality", "administrative legality", "legality", "public administrative management", "public institutions", "administrative act", "effectiveness of legality" and "control of legality". Their equivalents in English were also applied: "constitutional principle of legality", "administrative legality", "public administrative management", "public institutions" and "judicial review of administrative acts". The terms were combined using the Boolean operators AND and OR, in order to locate studies that examined the relationship between the submission of the Administration to the law and the quality of

institutional decisions. The search was carried out during September 2026.

Inclusion and exclusion criteria were established to ensure the legal relevance and academic quality of the publications. Scientific articles published between 2021 and 2026, written in Spanish or English, with access to the full text and direct relationship with legality, legality, administrative act, control of public power, or institutional management, were included. Research belonging to the areas of constitutional law, administrative law, and public administration was also considered.

The documents were filtered by reviewing the title, abstract, keywords, and full text. In the first stage, duplicate records were eliminated; in the second, publications that did not respond to the object of study were discarded; and in the third, the methodological quality, timeliness, and legal contribution of each article were verified. As a result of this process, the final corpus was made up of 20 scientific articles, which provided the basis for examining the doctrinal development of legality and its effects on administrative management. The rules and judgments were analyzed as independent legal sources and were not counted within the bibliometric indicators.

The treatment of the information combined bibliometric performance analysis with legal content analysis. The first made it possible to measure academic productivity, the impact of publications and the participation of authors, journals and institutions; while the second facilitated the interpretation of doctrinal positions and jurisprudential criteria related to the principle of legality. To organize the information, categories such as administrative competence, compliance with the procedure, motivation of acts, respect for due process, control of discretion and challenge mechanisms were defined.

Finally, the bibliometric evaluation considered the annual number of publications, citations received, authors with the highest production, institutional affiliations, countries of origin, journals of publication, and the most frequent keywords. In turn, the legal analysis examined the correspondence between doctrinal approaches, constitutional provisions, administrative rules, and

the criteria of the courts.

Results

Normative basis of the principle of legality

The legal analysis made it possible to establish that the principle of legality has a constitutional basis that conditions all actions of Ecuadorian public institutions. Article 226 of the Constitution of the Republic provides that state agencies, their dependencies, public servants, and persons exercising state powers may only act within the competencies and powers attributed to them. This provision establishes a positive link with the law, since the authority requires prior regulatory authorization to make decisions, dispose of resources, or affect legal situations. Andrade Ureña (2022) argues that the constitutional principles applicable to administrative law constitute mandatory rules aimed at limiting the exercise of power and ensuring the protection of citizens' rights.

Along with legality, Article 82 of the Constitution recognizes the right to legal certainty, the content of which is based on respect for the constitutional norm and the existence of prior, clear, public provisions applied by competent authorities. Both principles are directly related, because citizens need to know the rules that guide state decisions and foresee their legal consequences. Valarezo Román, Serna Alzate, and Reyes Pontón (2022) explain that the issuance of the Organic Administrative Code responded to the need to constitutionalize the functioning of the Administration and unify the rules applicable to its procedures.

On the other hand, Article 227 of the Constitution determines that the public administration constitutes a service to the community and must be governed by the principles of effectiveness, efficiency, quality, coordination, participation, planning, transparency and evaluation. This provision demonstrates that legality cannot be analyzed in isolation from institutional management. A public entity must meet its objectives and meet social needs, but always within the limits defined by the law. Barba, Rodríguez and Castro (2024) point out that the Constitution, legislation, regulations and jurisprudence provide the necessary legal bases

for legitimate, transparent and rights-respecting public management.

The Organic Administrative Code develops this mandate through the principle of legality provided for in Article 14. This provision requires that administrative action be subject to the Constitution, international instruments, the law, legal principles, applicable jurisprudence and the Code itself. Legality broadens the content of legality, since it prevents the authority from limiting itself to verifying the existence of an enabling norm. It must also verify that its decision respects constitutional rights, mandatory precedents and the principles that guide the public service.

Motivation represents another expression of the principle of legality. Article 76, paragraph 7, paragraph 1, of the Constitution establishes that the resolutions of the public authorities must be duly motivated. Likewise, Articles 99 and 100 of the Organic Administrative Code include

motivation among the requirements for the validity of the act and require the identification of the applicable rule, the determination of the relevant facts, and the explanation of the relationship between both elements. Ramón (2023) argues that motivation constitutes a guarantee against arbitrariness, because it allows the reasons of the authority to be known and those decisions that do not present sufficient legal justification to be questioned.

In turn, the Constitution recognizes mechanisms to control compliance with the law. Article 173 allows administrative acts to be challenged both before the Administration itself and before the organs of the Judicial Function, while Article 233 determines that no public servant is exempt from responsibility for his or her actions or omissions. These provisions prevent the administrative decision from becoming absolute and guarantee its review when there is a possible violation of rights.

Table 1. Normative foundations of the principle of legality in administrative management

Instrument	Article	Legal content	Impact on public management
Constitution of the Republic of Ecuador	76.7.1	It requires the reasons for the resolutions issued by the public authorities.	It requires decisions to be justified on legal and factual grounds.
Constitution of the Republic of Ecuador	82	It recognises the right to legal certainty.	It requires prior, clear, public rules and application by competent authorities.
Constitution of the Republic of Ecuador	173	It allows administrative acts to be challenged in administrative and judicial venues.	It facilitates the control and correction of decisions contrary to law.
Constitution of the Republic of Ecuador	226	It limits public action to the powers conferred by the Constitution and the law.	It prevents the overstepping of functions and requires prior regulatory authorization.
Constitution of the Republic of Ecuador	227	It defines the principles that govern the public administration.	It links legality with efficiency, quality, transparency and institutional evaluation.
Constitution of the Republic of Ecuador	233	It establishes the responsibility of the servants for their actions and omissions.	It allows legal consequences to be attributed for illegal actions.
Organic Administrative Code	3	It recognises the principle of administrative efficiency.	It requires that the actions comply with the purposes established for each institution.

Organic Administrative Code	14	It regulates the principle of legality.	It subjects public activity to the totality of the legal system.
Organic Administrative Code	99	It determines the requirements for the validity of the administrative act.	It requires competence, purpose, will, procedure and motivation.
Organic Administrative Code	100	It establishes the requirements of the motivation.	It requires the applicable rules to be related to the proven facts.
Organic Administrative Code	105	It regulates the grounds for the nullity of the administrative act.	It allows decisions affected by serious defects to be withdrawn from the legal system.

Note. Prepared by the author based on the Constitution of the Republic of Ecuador and the Organic Administrative Code.

The normative basis of the principle of legality is structured on three related levels: the Constitution establishes the limits of power; the Organic Administrative Code develops the conditions for the validity of the proceedings; and the control mechanisms allow for the review of decisions contrary to the legal system. However, the effectiveness of this framework depends on its material application in each procedure. Therefore, it is not enough to identify the rule invoked by the institution, but the competence of the authority, respect for due process, the sufficiency of the motivation and the effective possibility of challenging the act must be verified.

Criteria determining the effectiveness of the principle of legality

The analysis of the legal literature made it possible to identify five fundamental criteria to determine whether the constitutional principle of legality is effectively applied in public institutions: competence of the authority, respect for the administrative procedure, sufficient motivation, reasonableness and proportionality of the decision, and the existence of control mechanisms. These elements make it possible to overcome a restricted view of legality, based solely on the citation of norms, and to examine whether public actions materially respect the legal system and the rights of those administered.

The first criterion corresponds to administrative competence, understood as the legal attribution that enables an authority to act on a given matter.

Compliance with it requires verifying that the public servant or issuing body has powers according to the subject matter, territory, time, and hierarchical level. Competence cannot be presumed, expanded by institutional will, or transferred without regulatory authorization. Consequently, an act issued by an incompetent authority contradicts Article 226 of the Constitution and affects its validity. Rea, Mosquera, and Martínez (2025) argue that the legitimacy of administrative procedures depends, first, on whether public authority is exercised within the limits established by the Constitution and the Organic Administrative Code.

The second criterion is related to respect for procedure and due process. The authority must comply with the stages, terms, and guarantees provided for each action, especially when the decision may restrict rights or impose a sanction. Timely notification, access to the file, the opportunity to present evidence, contradiction, and the right to defense are indispensable conditions for legitimate action. Rivera and Silva (2026) point out that deficiencies in the observance of deadlines and notification procedures affect the defense of those administered and compromise the legitimacy of the public decision.

The third criterion corresponds to the sufficient motivation of the administrative act. The authority must identify the applicable rules, determine the proven facts, and explain the logical relationship that leads to the decision. The motivation is not satisfied with the transcription of articles or with general statements that prevent

knowing the institutional reasons. Aponte et al. (2024) explain that the justification of administrative acts strengthens transparency, predictability, and control of state action.

The fourth criterion includes the reasonableness and proportionality of the decision. An action may be within the institutional competence and comply with the formal stages, but be contrary to the constitutional order if it imposes an excessive or unnecessary measure. Matute and Ormazá (2022) link motivation with control and proportionality in the exercise of administrative sanctioning power. From this perspective, the authority must demonstrate that the decision pursues a legitimate purpose, is suitable to achieve it, does not have a less restrictive alternative, and

maintains a balance between the public benefit and the impact caused.

The fifth criterion refers to the existence and effectiveness of control mechanisms. Legality requires procedures that allow for the review, correction, or withdrawal of acts contrary to the legal system. These mechanisms include administrative appeals, ex officio review, declaration of nullity, contentious-administrative challenge, and jurisdictional guarantees when there is a violation of rights. Beltrán Guevara (2024) explains that the power of ex officio review constitutes an expression of administrative self-protection, through which the Administration itself can correct illegal decisions.

Table 2. Criteria for evaluating the effectiveness of the principle of legality

Criteria	Compliance indicators	Verifiable evidence	Manifestation of ineffectiveness
Administrative competence	Empowered authority; express attribution; respect for subject matter, territory, time and degree	Rule of competence, valid delegation, organic statute or appointment resolution	Overstepping of functions, irregular delegation or decision issued by an incompetent body
Procedure and Due Process	Notification, defense, access to the file, presentation of evidence and compliance with deadlines	Complete file, notification certificates, defense briefs and evidentiary proceedings	Omission of stages, lack of defense, unjustified delays or defective notification
Sufficient motivation	Identification of facts, applicable rules and logical relationship between the two	Clear resolution, legal grounds, assessment of evidence and explanation of the decision	Isolated normative citations, impertinent arguments, contradictions or lack of justification
Reasonableness and proportionality	Legitimate purpose, appropriateness, necessity and balance of the measure	Analysis of alternatives, justification of the measure and assessment of its effects	Excessive, unnecessary, discriminatory or unrelated decision
Control and challenge	Availability of resources, institutional review and access to judicial control	Resolved appeals, control reports, review decisions and judgments	Obstacles to challenge, failure to respond, permanence of illegal acts or failure to comply with decisions
Transparency and accountability	Publicity of the action, access to information and identification of	Public records, reports, accessible records and accountability	Concealment of information, lack of traceability or absence of

those responsible	responsibilities
Note. Prepared by the author based on the criteria identified in the reviewed legal literature. On the basis of these criteria, the effectiveness of the principle of legality can be classified into three levels. High effectiveness exists when the action complies with competence, respects the procedure, presents sufficient reasons, passes the proportionality test and admits effective control. Partial effectiveness appears when the institution complies with most of the requirements, but has deficiencies that do not cause a lack of defence or substantially alter the content of the decision. On the other hand, limited effectiveness occurs when there are defects of competence, absence of reasoning, violation of due process, arbitrary measures or impediments to the exercise of the right of challenge. Factors limiting the effective application of the principle of legality The legal analysis made it possible to determine that the existence of a broad constitutional and administrative framework does not ensure, by itself, the effective application of the principle of legality. The main limitations are related to the overlapping of regulations, the insufficient legal preparation of public servants, defects in the motivation, the non-observance of the requirements of validity, the arbitrary use of discretion and the weakness of the control mechanisms. A first limitation corresponds to dispersion, contradiction and lack of regulatory clarity. Public institutions must apply constitutional, legal, regulatory and technical norms that do not always have an adequate articulation. When two provisions regulate the same matter with different criteria, the authority may adopt incompatible interpretations or select the one that is most convenient for the institution. Londoño Choez and Alarcón Parra (2025) identify among the main problems of the Ecuadorian Administration the overlapping of regulations, the lack of clarity of certain provisions and excessive bureaucracy. The insufficient legal training of public servants constitutes a second barrier. Ignorance of the Constitution, the Organic Administrative Code,	and jurisprudential precedents can lead to errors in the determination of competence, the substantiation of the procedure, and the motivation of resolutions. This limitation is more serious when officials apply institutional formats without reviewing the particularities of the case or reproduce provisions that have lost their validity. Haro Bravo and Rojas Granizo (2025) warn that ignorance of the essential requirements of the administrative act affects its validity and demonstrates the need to strengthen the training of public servants and internal control systems. Another relevant limitation is the insufficient, apparent, or inconsistent motivation of administrative acts. This defect appears when the authority cites rules without explaining their relationship with the facts, omits the evaluation of evidence, uses arguments unrelated to the matter, or does not respond to the allegations of the administrated. Maldonado-Cabrera and Castellanos-Herrera (2022) point out that the lack of motivation affects the right to defense, because it prevents knowing the reasons that support the public decision. From a constitutional point of view, this defect cannot be reduced to an irregularity of form, since it compromises the validity of the act and hinders its challenge. Failure to comply with the validity requirements also limits the effectiveness of the principle of legality. Article 99 of the Organic Administrative Code requires that any act comply with the competence, purpose, will, procedure, and motivation. The absence of any of these elements can produce different consequences depending on the seriousness of the defect, from its correction to the declaration of nullity. Haro Bravo and Rojas Granizo (2025) argue that defects related to competence, procedure, and motivation affect the legitimacy of the action and deteriorate citizen confidence. A fifth factor corresponds to the inappropriate use of administrative discretion. Discretion allows the authority to select an alternative among several legally admissible options, but does not authorize it to act outside the law. The problem arises when the decision lacks a legitimate purpose, establishes unjustified differences,

imposes excessive burdens, or responds to considerations outside the public interest. Mosquera Pazmiño and Jiménez Guartan (2025) explain that discretion must be subject to constitutional principles and judicial control, since its unlimited exercise can lead to arbitrariness.

In this regard, Jaramillo-Becerra et al. (2025) specify that legality requires normative support; reasonableness requires coherence between the decision and the legal system; and proportionality requires a balance between the means used and the public purpose. When these parameters are not justified, discretionary power ceases to be a legitimate margin of decision and is transformed into arbitrariness. This deviation can violate Articles 76, 82, and 226 of the Constitution, in

addition to giving rise to administrative or judicial liability for the authority that issued the act (Jaramillo-Becerra et al., 2025).

Finally, the weakness of internal control and the delay in reviewing the proceedings reduce the institutional capacity to correct illegal decisions. When the legal units review the files after the issuance of the act or the appeals are not resolved within the corresponding deadlines, the person concerned remains exposed to the effects of a questioned decision. The control must be preventive and subsequent: before issuance, it must verify the competence, the procedure and the motivation; then it must ensure the timely resolution of appeals, complaints and review processes.

Table 3. Factors that limit the effective application of the principle of legality

Limiting factor	Institutional manifestation	Principle or right affected	Possible legal consequence
Dispersion and regulatory contradiction	Uneven application of rules, conflicts of interpretation and absence of uniform criteria	Legality and legal certainty	Contradictory decisions, challenge or invalidity
Insufficient legal training	Errors of jurisdiction, use of repealed rules and ignorance of precedents	Legality, effectiveness and responsibility	Defective Acts and Server Liability
Insufficient or apparent motivation	Transcription of rules, lack of evidentiary assessment or inconsistent arguments	Due process, defense and transparency	Nullity of the act and impossibility of exercising an adequate defense
Waiver of validity requirements	Lack of jurisdiction, unlawful object, vitiated will, or incomplete procedure	Legality and administrative validity	Nullity, voidability or correction of the act
Arbitrary use of discretion	Unequal treatment, excessive measures or decisions that are not in the public interest	Reasonableness, equality and proportionality	Misuse of power and administrative responsibility
Weak controls	Late review, unanswered appeals, and incomplete files	Effective protection and right to challenge	Temporary permanence of illegal acts and defenselessness
Excessive bureaucracy	Repetitive procedures, institutional delay and duplication of actions	Effectiveness, efficiency and good administration	Unjustified delays and infringement of rights

Note. Prepared by the author based on the analysis of the selected legal literature.

The factors identified are directly related;

therefore, normative ambiguity makes interpretation difficult; lack of training increases the risk of incorrect decisions; poor motivation

prevents knowing the reasons of the authority; and late control prolongs the effects of the questioned act. Therefore, the problem lies not only in the individual conduct of the public servant, but also in the normative and organizational conditions that determine the functioning of each institution.

Impact of the principle of legality on the administrative management of public institutions

The results of the review make it possible to establish that the effectiveness of the constitutional principle of legality produces effects that go beyond formal compliance with the rules. Its impact is reflected in legal certainty, transparency, protection of rights, the responsibility of public servants and public confidence. In effect, an institution acts in accordance with the law when it exercises its powers within constitutional limits, applies previously established procedures and expresses the legal reasons that support its decisions.

First, compliance with the law provides legal certainty because it allows people to know the applicable rules and anticipate the consequences of State action. An administrative decision based on prior rules, issued by a competent authority and supported by sufficient reasons reduces the margins of arbitrariness. On the other hand, when the entity modifies criteria without justification, omits stages of the procedure or uses powers that do not correspond to it, the action loses predictability and increases the risk of challenges.

Second, legality is directly related to institutional transparency. De la Torre and Núñez (2023) point out that access to public information is an essential component of democratic administration, although their study of Ecuadorian municipal governments identified significant levels of non-compliance with transparency obligations. This result demonstrates that normative recognition of the right of access to information is not enough if institutions do not publish complete, current, and understandable data.

In a complementary way, the use of open data expands the possibilities of social control over the

Administration. García (2022) argues that open government tools favor access to information and the relationship between authorities and citizens. However, their contribution depends on the quality, updating, and accessibility of institutional data. From this perspective, the effectiveness of legality also requires that public information can be consulted, contrasted, and reused.

Third, the principle of legality protects the rights of individuals in the exercise of public power. The requirement of competence, procedure, motivation, and proportionality prevents the authorities from adopting decisions based solely on discretionary criteria. It also allows the administered party to know the reasons for the decision, present arguments, provide evidence, and use the corresponding challenge mechanisms. Gudiño (2022), when examining transparency in Ecuadorian public procurement, highlights the importance of citizen participation as an instrument of oversight of state actions.

Fourth, legality influences the institutional and personal responsibility of those who exercise public functions. The existence of documented procedures makes it possible to identify the authority that made a decision, the rules it applied, and the resources used. This traceability facilitates accountability and the determination of administrative, civil, or criminal responsibilities where appropriate. Samaratunge and Alam (2021) explain that transparency and accountability are central elements of public governance, as they limit the arbitrary use of power and favor democratic control.

Finally, the effective application of legality contributes to citizen trust and the legitimacy of institutions. Cubero and Valdez (2022) consider that process management can promote transparency and open government, provided that there is an institutional structure capable of implementing the policies and regulations envisaged. In this sense, citizens do not evaluate the Administration only for the speed of its procedures, but also for the equality of treatment, the clarity of the requirements and the possibility of obtaining reasoned responses. Therefore, a quick decision but contrary to the legal system cannot be considered effective.

Table 4. Impact of the principle of legality on administrative management

Dimension	Manifestation of the principle of legality	Institutional effect	Effect on citizens	Evaluation indicators
Legal certainty	Uniform application of prior rules and procedures	Reduce contradictions and arbitrary decisions	Increases the predictability of state action	Resolutions revoked, contradictory criteria and compliance with deadlines
Transparency	Publicity of events, motivation and access to files	Facilitates internal and external control	It allows public decisions to be known and monitored	Updated information, complete dossiers, and responses to requests
Protection of rights	Respect for due process and the right of defense	Reduces the invalidity of the proceedings	Facilitates defense against unfavorable decisions	Valid notifications, access to resources, and sufficient motivation
Institutional accountability	Identification of authorities, competences and actions	It allows determining responsibilities	Reduces impunity for irregularities	Audits, sanctions, control reports and compliance with recommendations
Administrative efficiency	Clear, coordinated and legally valid procedures	Reduce errors, duplications and rework	Supports timely and consistent care	Response time, number of procedures observed and administrative costs
Citizen trust	Impartial treatment and decisions consistent with the law	Reinforces the legitimacy of the institution	Improves perception of public administration	Complaints, user satisfaction and level of citizen participation

Source: Authors' elaboration based on the bibliographic review.

Table 4 shows that the effectiveness of the principle of legality must be assessed through its concrete consequences in institutional management. Its observance reduces arbitrariness, improves transparency, protects rights, facilitates accountability and reinforces public trust. However, these effects require the Administration to transfer constitutional and legal provisions to its daily procedures. Therefore, legality should not be understood as a documentary formality, but as a substantial parameter that conditions the validity, quality and legitimacy of any administrative decision.

Discussion

The discussion was structured according to the

three specific objectives of the research. This organization allows to contrast the results obtained with recent legal studies and to establish whether the effectiveness of the principle of legality depends only on its normative recognition or also on the institutional conditions that determine its application. In this sense, the analysis is not limited to describing constitutional and legal provisions, but examines their compliance within administrative management and their effects on the rights of citizens.

The Constitution of the Republic limits the exercise of state powers, while the Organic Administrative Code expands this obligation through the principle of legality. Consequently,

the authorities must not only respect the law, but also the Constitution, international instruments, jurisprudence, and general principles of law. This result coincides with Ibarra García (2023), who argues that administrative legality has evolved towards a comprehensive conception of legality, within which fundamental rights constitute mandatory limits for public power. Likewise, Ramírez-López (2025) points out that the validity of the administrative act depends on the competence, object, motivation, purpose, and form. Iglesias Sevillano (2022), for his part, warns that the current regulatory complexity poses new difficulties in interpreting and controlling administrative decisions. Therefore, although Ecuador has rules capable of limiting the exercise of power, the effectiveness of the principle of legality depends on its uniform interpretation and its concrete application within each institution.

The results identified as the main deficiencies insufficient motivation, failure to meet deadlines, lack of response to requests, uneven application of rules, regulatory dispersion, and limited legal training of public servants. Such problems reveal that the violation of legality does not always come from a decision expressly contrary to the law, since it can also originate in an omission, an unjustified delay, or a resolution that does not explain the relationship between the facts and the rule applied. In accordance with this finding, Ruano Sánchez and Brito Lavayen (2025) argue that negative administrative silence affects motivation, legal certainty, and the right to defense, because the citizen is unaware of the reasons for the institutional refusal. Similarly, Toledo-Ávila and Jiménez-Loaiza (2025) point out that the lack of uniformity in the administrative sanctioning regime can lead to inequality and contradictory decisions.

Finally, the results showed that observance of the principle of legality favors transparency, administrative efficiency, and the protection of the rights of those administered. However, these effects only occur when institutions issue reasoned decisions, respond within deadlines, and provide useful information for citizen control. Jara-Iñiguez and Hidalgo (2025) found a low correspondence between the information published by various Ecuadorian institutions and

the real needs of citizens, which makes it possible to distinguish between formal transparency and effective transparency. In turn, Zambrano Romero and Herrera Avilés (2025) conclude that the legal recognition of the right to good administration has not eliminated citizen dissatisfaction associated with complex procedures, deficient services, and poor institutional preparation. From a comparative perspective, Ponce Solé (2023) argues that good administration requires diligence, care, and sufficient motivation in each public decision.

Conclusions

It is concluded that the principle of legality has a solid foundation within the Ecuadorian legal system. The Constitution of the Republic and the Organic Administrative Code oblige public institutions to exercise only the powers attributed to them and to subject their decisions to the Constitution, the law, international instruments, jurisprudence and general principles of law. However, the effectiveness of this framework does not depend on the number of existing rules, but on their consistent application in each procedure. Therefore, competence, motivation, public purpose and respect for due process are essential requirements for administrative action to be valid and legitimate.

The main deficiencies in the application of the principle of legality are related to the insufficient reasoning of administrative acts, the failure to meet deadlines, the lack of response to requests, the dispersion of regulations and the unequal application of legal criteria. In addition, the limited training of some public servants and the inadequate exercise of discretion increase the risk of arbitrary decisions and violations of due process. Consequently, the distance between the norm and practice represents the main challenge for public institutions, which is why it is necessary to unify procedures, strengthen internal control and improve the legal training of personnel responsible for making decisions.

Finally, it is concluded that the effective observance of the principle of legality has a favorable impact on transparency, administrative efficiency and the protection of the rights of the administered. An action based on clear rules,

reasoned decisions and timely procedures facilitates citizen control, reduces institutional errors and offers adequate means to exercise the right of defense. However, merely documentary

compliance is not sufficient if the public information is useless, the procedures are delayed or the resolutions do not address the substance of the requests.

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