



## ABOUT BASIC RULES, TYPES AND ELEMENTS OF LEGAL TECHNIQUE

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### ABSTRACT

*This article theoretically analyzes the scientific positions on the basic regulations, rules, types and elements of legal technique as a part of the legal action. From the analysis it is possible to ensure that the legal machinery has both scientific and practical significance. To date, comparison of legal technique with other legal sciences, leads to the conclusion that the organic connection and interdependence between them. Legal entity (reality), is composed of many parts and small industries, depending on their availability and the degree of the study also divided and jurisprudence.*

**KEY WORDS:** *legal activities, legal activities, the implementation of law, application of the law, legal act, jurisprudence, legal advice, legal instrument, rules of legal technique, types of legal technique, elements of legal technique.*

### DISCUSSION

Modern statehood has adapted to carry out public administration through documents. The emergence of computer technologies did not affect the disappearance of documents, but on the contrary, contributed to the emergence of their new types and forms - electronic. Paper and electronic forms of documents in their content can be of a different nature: text, graphic, videographic, photographic, visual, sound, etc. Legal documents are mainly written and reflected on paper [14].

Along with this, the question arises - which documents are legal? According to A.F. Cherdantsev, these include: 1) regulatory legal acts; 2) documents regulating relationships of an individual nature; 3) documents reflecting legal facts; 4) money and securities; 5) documents proving facts [14].

Another opinion of E.S. Shugrin. Thus, she divides legal documents into four groups: a) normative legal acts; b) law enforcement documents; c) contracts; d) other types of legal documents [14].

In our opinion, A.F. Cherdantsev more fully reveals the types of legal documents, while E.S. Shugrina points to their generalized form - "other types of legal documents". Legal documents have the peculiarity of creating, canceling or changing any rights and obligations. When developing all these documents, they are based on the provisions of legal technology.

Regarding the types of regulatory legal acts among a number of legal scholars [9,10] there are positions. In accordance with the Law of the Republic of Uzbekistan of December 24, 2012 "On regulatory legal acts", these include: a) the Constitution; b) laws; c) resolutions of the chambers of the Oliy Majlis; d) decrees, decisions and orders of the President; e) resolutions of the Cabinet of Ministers; f) orders and decisions of ministries, state committees and departments; g) decisions of local government bodies.

From the above, it can be seen that regulatory legal acts have their own different types, which have their own peculiarities in the content and scope of regulation of social relations. The types of subjects of regulatory legal acts, methods, means and rules for their preparation are also different. Such methods, means and rules constitute the structural elements of legal technology.

The invaluable importance of legal technology in the development of laws, which is one of the most important and basic types of regulatory legal acts. Lawmaking as an integral part of lawmaking is based on the relevant provisions of legal technology.

The purpose of legal technique, as noted above, is to ensure that the legal document is perfect. To achieve this goal, she sets herself a number of important tasks, a list of which is disclosed in the legal literature [15]. These tasks



include, for example, the quick and high-quality preparation of legal documents, the introduction of amendments and additions to them, the recognition as completely or partially invalid, the provision of concreteness, brevity and clarity of the statement of provisions, etc.[8]

For a closer representation of the goals and objectives of legal technology, you should pay attention to its rules, forms and structural elements. So, N.A. Vlasenko divides the general rules of legal technology into five groups: 1) requisite requirements (rules for external design); 2) meaningful rules; 3) structural rules; 4) language requirements; 5) logical requirements [1].

Unlike N.A. Vlasenko, the position of Yu.A. Tikhomirov, who divides the rules of legal technique into six interrelated groups: 1) cognitive and legal rules; 2) regulatory and structural rules; 3) logical rules; 4) language requirements; 5) documentary and technical rules; 6) procedural requirements [11].

According to T.V. Kashanina, substantive legal technique includes the following groups of rules: 1) rules for achieving social adequacy of law (substantive rules); 2) the rules for ensuring the logic of law; 3) structural rules (internal form of a legal document); 4) language rules; 5) formal (requisite) rules; 6) procedural rules [3].

In our opinion, the rules of legal technique T.V. Kashanina grouped them relatively fully and specifically. In fact, its classification is based on the classification of N.A. Vlasenko, in contrast to whom T.V. Kashanin, being in solidarity with Yu.A. Tikhomirov, emphasizes "procedural rules".

Agreeing with the opinion of T.V. Kashanina, as the seventh rule of legal technique, we can recognize its prognostic feature put forward by I.T. Tulteev [12].

So, we will briefly analyze each rule of legal technique, considering its peculiar features.

1. The *rules of legal technique regarding the content* presuppose that the legal document corresponds to social reality. Since any legal activity occurs precisely within the framework of social reality. Due to the fact that legal activity is associated with people, the subjects carrying it out should pay special attention to the correct content of this activity. In this case, public relations will be regulated correctly, and legal relations will correspond to a legal document.

2. The *rules of logic*, in our opinion, are expressed in two aspects: first - the definition of the most acceptable direction of regulation of social relations, providing for the effective implementation of legal activities; the second is to ensure the internal logical structure of a legal document.

3. *Structural rules*. Legal activity is an activity that takes place in a specific system. In this

regard, legal technique manifests itself systemically as an interconnected sequential process. The regulation of social relations is carried out in a certain sequence. On this basis, a legal document also has a peculiar structure, in most cases determined by regulatory legal acts.

4. *Language rules* are important in the legal activities carried out for people. For this reason, any legal document must be human-readable, specific, concise and meaningfully correct.

5. *Formal (requisite) requirements*. Even if these rules do not affect the content of a legal document, in many cases its legal force and peculiarity are determined precisely by the details. Details provide information about the limits of the document, its subjects and many other issues.

6. *Procedural rules* assume a systematic process of developing a legal document. The preparation of a document in some cases should be scientifically grounded, practically tested and thoughtfully creative process. During this process, the legal document is brought to completion in accordance with the requirements of the legal technique.

7. Conventionally, the *prognostic feature of legal technique* can be considered as a separate aspect. According to I.T. Tulteeva, like any other part of lawmaking, legal technique also "looks ahead", setting the goal of creating legal norms. The main task of legal technique is to correctly and completely "introduce" the needs of the legal system into the content of a legal document, to accurately reflect the decisions of the subject of lawmaking in its text. And this cannot be achieved without the use of certain forecasting methods. Forecasting tasks of legal technique answer the following questions: what branch of public relations should be regulated; what concepts and terms are necessary for the settlement of these relations; which method is more appropriate for the legal regulation of these relations, what will be the construction of legal norms and the legal document as a whole; how such relations are regulated in foreign legal systems; what conflicts or shortcomings may arise when introducing the envisaged legal novelty into practice; what changes are expected in the legal system as a result of the adoption of the draft document [13].

In reality, all these rules are inextricably linked with each other, the first presupposes the second. All general rules of legal technique serve to implement the following: ensuring a logical relationship between sentences and terms of a legal document; determination of the correct construction of a legal document from the position of the form; correct use of legal terms; exclusion of repetitions of legal norms, gaps in the regulation of certain social relations; determination of the type of document regulating public relations, etc.



According to VN Kartashov, legal technique is divided inheriting types: legislative, enforcement (pravorealizatsionnaya), interpretational, pravosistemo forming, judicial, investigative, prosecutorial, and so forth. [4]

Without joining this position, T.V. Kashanina notes: "Firstly, the specialization of legal activity is likely to increase, since social life is constantly becoming more complicated. The list of types of legal techniques is thus incomplete. In addition to those indicated, it can include the technique of conducting an inquiry, examination, execution of a court decision, carrying out work to prevent delinquency among minors, concluding contracts, assigning pensions, registering and paying benefits to the unemployed, lawyer, notarial techniques, etc. Secondly, legal documents prepared in the implementation of some types of legal work have similarities. So, an inquiry officer, an investigator, and a judge dealing with gross legal pathology (commission of crimes) must act accurately and be especially scrupulous when drawing up legal documents. In addition, they act on behalf of the state, and this fact is seen through the details of their legal acts. The common thing that is inherent in various law enforcement documents allows them to be combined into one group" [5].

Continuing his thought, T.V. Kashanina divides the types of legal techniques into the following six groups: 1) law-making technique; 2) the technique of publishing normative acts; 3) the technique of systematizing normative acts; 4) interpretation technique; 5) law enforcement technique; 6) law enforcement technique [5].

Such a grouping of types of legal technique seems to be the most complete in relation to the classification of V. Kartashova, to a certain extent reflecting its essence. However, in this grouping there are some controversial aspects: firstly, in the above 2, 3 and 4 points of the classification, the author linked the types of legal technique only with normative acts, in reality, legal technique is manifested in all legal activities. Secondly, the law enforcement technique at the moment also covers the law enforcement technique, that is, according to the generally accepted provisions of the theory of state and law [2], law enforcement is considered an integral part of the implementation of the law, one of its forms. The author divides them into separate groups.

Legal technology has a complex structure, which, in our opinion, consists of the following elements:

1. Depending on the volume: the technique of drawing up international documents (agreements); legislative technique; the technique of drawing up by-laws (decrees, orders, resolutions, orders, etc.); technique for the development of

individual documents for the implementation of the right.

2. Depending on the tasks: the technique of consciousness of legal documents; technique of publishing legal documents; technique for making changes and additions to legal documents; technique for organizing legal documents; technique for eliminating legal contradictions; technique for interpreting legal documents; a technique for completing legal gaps.

Thus, based on social needs and the general policy of the state, the legal technique contains the requirements and rules for creating, publishing a legal document, making amendments and additions to it, systematizing, implementing, eliminating legal contradictions and completing legal gaps, manifesting itself as an inseparable part legal activity.

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