

ТЕОРІЯ ТА ІСТОРІЯ ДЕРЖАВИ І ПРАВА. ПИТАННЯ ФІЛОСОФІЇ ПРАВА,
СОЦІОЛОГІЇ ПРАВА ТА ЮРИДИЧНОЇ ПСИХОЛОГІЇ

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ЮРИДИЧНА ТЕХНІКА ЯК ПРАВОВА КАТЕГОРІЯ ТА
НАВЧАЛЬНА ДИСЦИПЛІНА

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Стаття розглядає юридичну техніку як комплекс спеціальних знань, прийомів та методів, що застосовуються у процесі створення, систематизації та вдосконалення законодавства. Юридична техніка охоплює широкий спектр інструментів, які забезпечують упорядкованість, логічність та узгодженість нормативно-правової бази. Її аналіз у загальнотеоретичному вимірі дозволяє сформувати цілісне уявлення про природу, сутність і функції цього феномена, визначити його місце у структурі правової науки та навчальної дисципліни, а також з'ясувати його роль у подальшій еволюції українського законодавства та його гармонізації з міжнародними стандартами правотворчості. Проблематика сутності й змісту юридичної техніки викликає зростаючий інтерес серед представників різних галузей правової науки, адже вона прямо пов'язана з ефективністю правового регулювання. Це пояснюється тим, що юридична техніка, будучи сукупністю спеціальних знань, прийомів і засобів формування нормативно-правових актів, безпосередньо впливає на якість правотворчого процесу та правозастосування. Вона виступає своєрідним «інструментарієм» законотворця, що дозволяє уникати колізій, неузгодженостей та зайвої казуїстики в нормах права. Крім того, належне застосування юридичної техніки забезпечує зрозумілість і доступність нормативних положень для адресатів права, що є важливою умовою реалізації принципу верховенства права. Саме завдяки юридичній техніці законодавство набуває системності, внутрішньої логіки й стабільності, що водночас не виключає його динамічного розвитку. Вона сприяє модернізації правової системи, робить можливим її пристосування до нових суспільних викликів, зумовлених інтеграційними й глобалізаційними процесами, а також забезпечує відповідність національного законодавства міжнародним стандартам. Таким чином, юридична техніка постає не лише як допоміжний набір прийомів правотворення, а як ключова умова ефективності права, що визначає якість функціонування всієї правової системи та її здатність реагувати на виклики сучасності.

Ключові слова: юридична техніка як категорія, юридична техніка як навчальна дисципліна, правотворчість, законодавча діяльність, закон, законодавство, навчальна дисципліна.

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Formulation of the problem

Dynamic changes in the sphere of social relations, as well as the rapid development of the legal system in the context of integration and globalization processes, highlight the need for a profound rethinking of the current state, essence, and quality of legal technique as an integral element of legal activity and a fundamental category of general theoretical jurisprudence. The universal nature of legal technique determines its application at all levels of legal regulation of social relations – from rule-making to law enforcement, which, in turn, requires its constant improvement. This improvement is driven not only by the desire to modernize scientific research in the field of law, but also by the scientific community's awareness of the decisive role of this category in ensuring the quality, effectiveness, and consistency of normative legal acts.

At the same time, the current legislative framework in Ukraine and a number of European countries cannot be considered entirely perfect. The poor quality of legal drafting in the preparation and adoption of regulatory acts leads to contradictions in legal regulation, reduces the level of legal certainty, and complicates law enforcement. This negatively affects the effectiveness of the public administration system, creates additional barriers in the social sphere, hinders the development of economic processes, and generally affects the stability of public life.

Research and improvement of legal techniques is not only a theoretical task, but also an important practical prerequisite for improving the quality of legislation, adapting legal systems to the challenges of a globalized world, and ensuring the sustainable development of society and modern legal science.

Knowledge of legal technique as an integral part of legal practice is developed by both academic theorists and practicing lawyers. This is due to the need to generalize the professional experience of lawyers and systematically study legal reality. It is the combination of theoretical foundations and practical experience that creates the conditions for a comprehensive understanding of legal technique and ensures its effective application in various areas of legal regulation.

In the current context of Ukraine's development and the transformation of its national legal system, issues related to improving legislation and bringing it into line with international legal standards are becoming particularly relevant. This is a necessary prerequisite for Ukraine's integration into the global legal space and for increasing the level of legal certainty and stability of legal regulation.

To ensure the proper quality and substantive completeness of regulatory legal acts, there is an objective need for further development and improvement of the institution of legal technique. Its modern understanding should cover not only traditional means and methods of preparing legal acts, but also the latest methods of law-making that take into account globalization trends and integration processes.

Thus, one of the most pressing tasks of modern legal science and academic discipline is to find effective means of improving the effectiveness of legal activity, in particular by improving legal technique as a tool for shaping high-quality and modern legislation.

Analysis of recent research and publications

Ukrainian scholars, including O. Bandurka, K. Volynka, B. Danevych, O. Dzyubenko, I. Onyshchuk, V. Kovalsky, V. Kopeychikov, L. Lutsik, O. Murashin, I. Onyshchuk, P. Rabinovich, V. Rindyuk, O. Skakun, V. Tatiy, Yu. Shemshuchenko, I. Shutak, O. Yushchik, and others.

The purpose of this article is to provide a comprehensive analysis and study of various aspects of legal technique in modern legal science, as well as to identify key problems and

contradictions that arise in the process of its development and improvement. Particular attention is paid to the impact of globalization and integration processes on the transformation of approaches to legal technique, which necessitates the adaptation of national legislation to international standards and the improvement of the effectiveness of law-making and law enforcement activities.

Presentation of the main material of the study

Legal reality covers an extremely wide range of social relations that need to be organized and regulated. Some of these relations are regulated by social norms that have historically developed and function in society: moral norms, religious precepts, corporate rules, customs and traditions, as well as other regulators of social behavior. At the same time, another sphere of relations, which is most significant for the functioning of the state and society, is subject to regulation by means of legal norms that are universally binding, formally defined, and guaranteed by the state. These norms are expressed and enshrined in normative legal acts, contracts, subordinate acts, and other legally significant documents that form the basis of legal regulation.

In turn, legal regulation in the context of the modern development of the state, law, and social relations requires constant improvement and harmonization with international standards. This necessitates a significant improvement in the quality of rule-making, since the ability of the legal system to ensure stable social development, protect human rights, and create the conditions for integration into the global legal community depends on its effectiveness.

As noted by renowned Ukrainian scholar V. Lebedenko, lawmaking should be viewed not only as a formal activity involving the creation of normative legal acts, but as a complex and multidimensional process that takes into account social needs, scientific approaches, international obligations, and the principles of the rule of law. In this context, legal technique is not an auxiliary element, but a system-forming element designed to ensure the internal consistency, clarity, and predictability of legal provisions (Lebedenko, 2014, p. 53).

In turn, O. Dzyubenko emphasizes that in the context of modern legal development, the issue of compliance with technical and legal requirements by subjects of departmental rule-making during the preparation and compilation of departmental regulatory documents is becoming particularly relevant. Failure to comply with such requirements leads to numerous problems in law enforcement, as departmental acts often contain conflicts and gaps that negatively affect the quality and effectiveness of current legislation (Dzyubenko, 2010, p. 3).

In view of this, there is a growing need to improve the legal culture of rule-making, ensure the efficiency and professionalism of bodies and officials performing departmental rule-making functions. At the same time, there is an urgent need for systematic improvement of the rules of legal technique governing the procedure for developing, adopting, and implementing departmental acts. This will not only eliminate conflicts and gaps in the legal field, but also ensure the quality of departmental regulatory documents, their internal consistency, and practical effectiveness.

Thus, O. L. Dzyubenko's position emphasizes the importance of further scientific understanding and practical improvement of legal techniques in the field of departmental rule-making, as it constitutes a significant segment of the legal regulation system and significantly affects the effectiveness of law enforcement in everyday life.

Law is a multifaceted and multidimensional phenomenon, which, in terms of its value characteristics, belongs to the most significant achievements of national and global civilization and culture. It is not only an instrument for regulating social relations, but also an important

component of the spiritual and intellectual development of humanity, reflecting the evolution of moral, cultural, and social values.

The study of law and legal phenomena, including legal technique, cannot be limited to a formal legal or normative approach. It is also necessary to conduct a substantive analysis that reveals the deeper essence of legal phenomena, their axiological dimensions, and their interconnection with social processes. Such an approach is only possible if a modern integrative understanding of law is applied.

Within the integrative concept, law appears as a phenomenon that cannot be reduced solely to natural or positive law. Its essence is binary, as it simultaneously includes elements of naturalness (as a reflection of the ideas of justice, freedom, and equality) and positivity (as a result of formalized state activity, enshrined in normative legal acts). Therefore, it is appropriate to consider law as a natural-positive phenomenon that combines universal moral principles and formalized legal norms, ensuring their harmonious interaction in the legal system.

According to V. Dudchenko and O. Rusavska, the concept of «legal technique» should be considered as a collective, systematic category that encompasses not only a set of methods and techniques for law-making and law enforcement, but also acts as a kind of tool for understanding the law. The effectiveness or, conversely, the ineffectiveness of legal regulation directly depends on the level and quality of this understanding of law. Thus, legal technique appears not as a secondary or auxiliary element of the legal system, but as a conceptually important factor that influences the effectiveness of the functioning of the entire mechanism of law (Dudchenko, Rusavska, 2018, p. 12).

This is precisely why it is important to study legal technique for general theoretical jurisprudence: it combines a theoretical understanding of the essence of law with practical mechanisms for its implementation. Therefore, the study of legal technique opens up opportunities not only for improving the rule-making process, but also for forming a more holistic and integrative approach to understanding law as a multidimensional social phenomenon.

A more generalized and at the same time practice-oriented definition of the category of «legal technique» is offered by D. Manko. In his opinion, legal technique is a set of material and technical means and individual legal instruments that enable a legal entity to formalize a legal act in writing. These means include both traditional carriers of legal information (in particular, the text of the law, official printed publications) and modern technological tools (for example, computer programs and other digital means of preparing and organizing regulatory documents) (Manko, 2019, p. 9).

This definition emphasizes the technical and practical aspects of legal technique, highlighting its importance not only as an abstract scientific category, but also as a practical tool that directly facilitates the creation, processing, and dissemination of normative legal acts. This approach indicates a gradual expansion of the concept of legal technique, taking into account technological innovations and the needs of modern law-making activities.

According to I. Shutak, legal technique is a special theoretical and applied legal science with its own subject of study and range of tasks. The central subject of its study is the patterns of rational legal activity aimed at creating, interpreting, and implementing law. This approach allows us to consider legal technique not only as a set of tools and means of law-making, but as a holistic scientific discipline that combines theoretical developments and applied aspects of law enforcement (Shutak, 2013, p. 25).

In the system of legal sciences, legal technique performs an extremely important function: it ensures the systematization of knowledge about the methods and techniques of legal activity, which are formed both within the framework of general theoretical jurisprudence and within the

framework of sectoral and applied legal sciences. Thanks to this, legal technique acts as a kind of integrating element of jurisprudence, combining methodological, instrumental, and organizational approaches aimed at ensuring the effectiveness of law-making and law enforcement practices.

An analysis of the above views on the essence and content of the category of «legal technique» leads to the conclusion that it should be understood as a multidimensional and multifaceted phenomenon. It is not limited to a set of technical means or methods of organizing legal norms, but reflects a comprehensive system of methods, principles, and rules that ensure the rationality and effectiveness of law-making, law-interpreting, and law-enforcing activities.

Legal technique, being an interdisciplinary category, accumulates both theoretical and applied elements of jurisprudence, which makes it possible to distinguish its manifestations at various levels of legal regulation – from the formation of conceptual foundations of law-making to specific procedures for the preparation and implementation of normative legal acts. It is precisely in this multifaceted nature that its significance for the modern legal system is revealed, since legal technique serves as a kind of «bridge» between legal theory and practice, combining scientific understanding of law with its actual functioning.

An interesting aspect of the emergence of the category of «legal technique» is the fact that, as I. O. Bily-Sabadash rightly notes, its scientific understanding dates back to the late 18th and early 19th centuries, when it entered the system of legal categories in countries of the Romano-Germanic legal family. The formation of this concept had specific historical preconditions:

firstly, the gradual replacement of the theological worldview of the Middle Ages with a legal one, which led to a shift in emphasis from religious and ethical to legal foundations of social life.

secondly, the active development of the doctrine of legal positivism, which limited the role of legal science mainly to formal legal analysis of legal norms (Bilia-Sabadas, 2008, pp. 37-38).

In this context, interest in legal technique was driven by the desire to achieve maximum quality in the creation and application of normative legal acts, primarily laws, which are recognized as the leading source of legal regulation in the Roman-Germanic legal system. High-quality legislative activity was seen as a guarantee of legal certainty and stability in social relations, and therefore as a key prerequisite for the effectiveness of legal regulation as a whole. Thus, the emergence of the category of «legal technique» was historically linked to the establishment of a new paradigm of legal understanding and the increased role of law as the main regulator of social relations.

According to A. Kuchuk, the content of legal technique covers «technical and legal techniques and rules for the formal consolidation of rules of conduct in laws and subordinate regulatory legal acts, as well as the drafting and formulation of provisions in acts applying legal norms and interpretative legal acts» (Kuchuk, 2017, p. 91). This definition emphasizes the multi-level nature of legal technique, which is applied both at the stage of law-making and in the processes of law enforcement and interpretation.

It is the content of legal technique, which covers the rules for formulating, systematizing, and organizing legal provisions, that makes it possible to understand its essence in a general theoretical dimension. At the same time, it determines the functional relationship between compliance with the requirements of legal technique by entities engaged in rule-making and law enforcement activities and the level of effectiveness of the entire legislative process. Failure to comply with these requirements can lead to ambiguity in regulatory acts, conflicts and gaps, which directly reduces the quality of regulation of social relations.

Thus, A. M. Kuchuk's position emphasizes the importance of legal technique not only as a set of formal and technical methods, but also as a system-forming factor that determines the effectiveness of legislative activity and the effectiveness of the legal system as a whole.

Conclusions

The number of controversial issues related to various aspects of legal technique and its relationship with related legal categories directly determines the growing scientific interest in this issue. At the same time, an analysis of existing research shows that most publications in this area focus primarily on the theoretical aspects of the problem. Without downplaying the importance of developing a conceptual framework for legal technique, it should be noted that a significant part of the practical difficulties faced by the Ukrainian legal system are based not so much on different scientific interpretations of this category as on real gaps and conflicts in law-making and law enforcement activities.

In this context, it seems appropriate to consider the possibility of normative consolidation of the concept of legal technique and its basic rules. Such a step would, first, contribute to the consolidation of scientific approaches in the theoretical sphere and, second, give new impetus to the further development of legal technique, including in-depth study of its sectoral features. Ultimately, this would have a positive impact on improving the quality and effectiveness of national legislation.

The problem of defining the composition of legal technique, the system of legal instruments used to achieve the goals of legal activity, deserves special attention. This problem is closely related to the clarification of the very concept of legal technique. In legal literature, its elements are most often referred to as techniques, means, rules, methods, ways, etc. At the same time, two main approaches to defining the essence of legal technique have developed in science – narrow and broad.

Both approaches are based on the recognition of such key elements as means and techniques as part of legal technique. At the same time, the differences between them lie in what types of means and techniques belong to the content of legal technique and whether it is appropriate to include additional elements in it – rules, methods, etc. This shows that the lack of unity in understanding the conceptual composition of the category is related to different approaches to interpreting the relevant definitions, in particular «means» and «techniques».

Prospects for further scientific research

It is important to distinguish between the above concepts. Legal techniques are tools for the legal expression and external formulation of the legislator's will, which are embodied in the drafting of documents, the compilation of texts of normative legal acts, and the implementation of other procedural actions. Techniques, on the other hand, are methods, procedures, or methodologies for the rational use of these means in the process of law-making. Thus, compliance with the rules of legal technique is achieved precisely through the correct combination and application of its means and techniques. The use of a particular technique in lawmaking means a conscious choice and rational combination of a set of means to achieve a specific result – the formulation of a clear, logical, and effective legal norm.

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LEGAL TECHNIQUE AS A LEGAL CATEGORY AND ACADEMIC DISCIPLINE

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The article considers legal technique as a set of special knowledge, techniques, and methods used in the process of creating, systematizing, and improving legislation. Legal technique covers a wide range of tools that ensure the orderliness, logic, and consistency of the regulatory framework. Its analysis in a general theoretical dimension allows us to form a holistic view of the nature, essence, and functions of this phenomenon, determine its place in the structure of legal science and academic discipline, and clarify its role in the further evolution of Ukrainian

legislation and its harmonization with international standards of lawmaking. The issue of the essence and content of legal technique is attracting growing interest among representatives of various branches of legal science, as it is directly related to the effectiveness of legal regulation. This is because legal technique, being a set of special knowledge, techniques, and means of forming normative legal acts, directly affects the quality of the law-making process and law enforcement. It acts as a kind of "toolkit" for lawmakers, allowing them to avoid conflicts, inconsistencies, and unnecessary casuistry in legal norms. In addition, the proper application of legal technique ensures the clarity and accessibility of normative provisions for those subject to the law, which is an important condition for the implementation of the principle of the rule of law. It is thanks to legal technique that legislation acquires systematicity, internal logic, and stability, which at the same time does not preclude its dynamic development. It contributes to the modernization of the legal system, makes it possible to adapt it to new social challenges caused by integration and globalization processes, and ensures the compliance of national legislation with international standards. Thus, legal technique appears not only as an auxiliary set of law-making techniques, but also as a key condition for the effectiveness of law, determining the quality of the functioning of the entire legal system and its ability to respond to contemporary challenges.

Key words: legal technique as a category, legal technique as an academic discipline, lawmaking, legislative activity, law, legislation, academic discipline.

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