

# HEQT



CENTER FOR LEGAL EXAMINATION AND  
LEGISLATIVE INITIATIVES

## INSTRUCTION

### FOR THE PREPARATION OF SCIENTIFIC-PRACTICAL COMMENTARIES TO NORMATIVE LEGAL ACTS

*(Guideline on drafting Legal commentaries)*

2024

# INSTRUCTION

**for the preparation of scientific-practical commentaries to normative legal acts**

## Table of contents

1. General provisions.....	1
2. The structure of the commentary.....	2
3. The technique for interpretation of an article.....	4
4. The procedure for referencing the materials used in interpretation.....	5
5. The procedure for indicating quotations in interpretation.....	5
6. The procedure for citing examples in interpretation.....	6
7. The requirements for the content of an interpretation of an article.....	7

Approved by the order of the Executive Director of the Center for Legal Examination and Legislative Initiatives No. F-04/24 dated January 16, 2024.

## **INSTRUCTION**

### **for the preparation of scientific-practical commentaries to normative legal acts**

#### **1. General provisions**

1.1. Instruction for the preparation of scientific-practical commentaries to normative legal acts (hereinafter referred to as the **Instruction**) has been prepared in order to improve the quality of activity of preparing of scientific-practical commentaries (hereinafter referred to as the **commentary**), as well as to ensure a unified approach in this field, and regulates the organization of the work on the preparation of commentaries at the Center for Legal Examination and Legislative Initiatives and its subordinate institutions (hereinafter referred to as the **Center**).

1.2. Commentaries to be prepared by the Center are approved upon the order of the Executive Director of the Center.

1.3. The main purpose of the commentaries prepared by the Center is to assist proper interpretation and application of normative legal acts by professional lawyers as well as state bodies (institutions).

1.4. In order to prepare commentaries, independent experts and specialists in the relevant field may be involved.

1.5. Depending on the type of the normative legal act being interpreted upon and the content of its structural elements, a different structure and content may be determined for commentaries prepared in accordance with this Instruction.

1.6. The term "articles" has been used in a general sense in relation to the structural elements of the normative legal acts being interpreted upon for the purposes of this Instruction.

## 2. The structure of commentary

2.1. The commentary is structured as follows:

- 2.1.1. list of authors;
- 2.1.2. rules of use;
- 2.1.3. abbreviations;
- 2.1.4. preface;
- 2.1.5. acknowledgments;
- 2.1.6. table of contents;
- 2.1.7. introduction;
- 2.1.8. interpretation of articles;
- 2.1.9. keywords.

2.2. In the "**List of authors**" section of the commentary, the authors and numbers of structural elements of the legal act interpreted by them must be listed.

2.3. In the "**Rules of use**" section of the commentary, brief information must be provided on the following:

- 2.3.1. structure of the commentary;
- 2.3.2. features of commentary drafting techniques, including numbering, referencing, abbreviations, quoting, etc.

2.4. In the "**Abbreviations**" section of the commentary, all abbreviations (acronyms) and shortcuts used in the commentary, including abbreviated names of normative legal acts and state bodies (institutions) must be stated.

2.5. In the "**Preface**" section of the commentary, the following information must be reflected:

- 2.5.1. general information about preparing of the commentary, including:
  - 2.5.1.1. general information about the team of authors (working group);
  - 2.5.1.2. the reasons and importance of preparing the commentary;
  - 2.5.1.3. information about whom the commentary is primarily intended for (for instance, professional lawyers, students, etc.);
  - 2.5.1.4. duration of preparing the commentary;
  - 2.5.1.5. date of adoption and number of the legal act being interpreted, as well as information on the latest amendments taken into account;
  - 2.5.1.6. information about the materials used and (or) researched during the preparation of the commentary, including statistical data and materials.
- 2.5.2. In case of revised version of the commentary:
  - 2.5.2.1. changes in the team of authors (if any);

2.5.2.2. reduction or expansion of the text as well as other updates compared to the previous edition and reasons for this.

2.6. In the “**Acknowledgments**” section of the commentary, information must be provided information about organizations, individuals, and legal entities (sponsors, protectors, etc.) who supported and contributed to the preparation of the commentary, and acknowledgments must be expressed to them.

2.7. The commentary must have a general “**Table of Contents**”<sup>1</sup> covering its entire text.

2.8. In the “**Introduction**” section of the commentary, the following information must be provided:

2.8.1. general information about the regulatory scope, subject, and purpose of a normative legal act to which the commentary relates;

2.8.2. brief information as an overview about the history of the relevant normative legal act (its background and development path, the latest updates and trends);

2.8.3. features of the legal force of relevant normative legal act in terms of time, place, and persons;

2.8.4. information about the features and principles of interpretation of the relevant normative legal act, etc.

2.9. The “**Interpretation of Articles**” section of the commentary must be drafted by interpreting separately on each article of the relevant legal act, while adhering to the following requirements:

2.9.1. the text of article appears as it is before the interpretation;

2.9.2. When articles with large volume and complicated content are interpreted, a **special table of contents**<sup>2</sup> may be inserted before the interpretation (after the text of article) (for better of use of the interpretation of article).

2.10. After the interpretation of article, **the list of recommended literature**<sup>3</sup> for that article may be provided.

2.11. **General explanatory notes** (in the form of a brief overview of the purpose and regulatory scope of the relevant section or chapter)<sup>4</sup> **regarding separate sections or chapters** of the normative legal act may be included in the commentary.

---

<sup>1</sup> References to the relevant pages of the commentary must be mentioned in the table of contents.

<sup>2</sup> Headings and subheadings, as well as the numbers of the paragraphs in which they are located are noted in the special table of contents.

<sup>3</sup>The decision on whether to provide such a list is made individually for each article by the commentator.

<sup>4</sup>For instance, when the legal nature and regulatory scope of the articles included in a section or chapter of a normative legal act are considered complex or difficult to understand by the commentator. The provision of an explanatory note to any section or chapter of a normative legal act does not necessarily require the provision of such notes to all other sections and chapters.

2.12. In the “**Keywords**” section of the commentary, relevant keywords are indicated the pages and paragraph numbers where they are reflected, alphabetically arranging to facilitate quick search information about important concepts.

### 3. The technique for interpretation of an article

3.1. The main purpose of the technique for interpreting particular articles during the preparation of commentaries is to ensure the ease of use of interpretation (readability and clear understanding of the interpretation).

3.2. The explanations provided in relation to the articles interpreted in the text of commentaries must be justified both scientifically (for instance, by referring to advanced academic literature, scientific articles, etc.) and from the point of view of the relevant legal application practice (for instance, by referring to court decisions, reputable legal journals, etc.).

3.3. When drafting the interpretation, the following basic rules must be followed:

3.3.1. the text of interpretation must be structured from general to specific;<sup>5</sup>

3.3.2. the structure of interpretation must be based on the structure and content of the interpreted article;

3.3.3. if the interpreted article combines several structural elements, each structural element within interpretation of that article must be analyzed and explained separately (it is not recommended to interpret several structural elements of the article in a general manner);

3.3.4. when drafting the text of interpretation, a heading must be provided for each structural section;

3.3.5. if several important aspects (conditions, concepts, practical application features, etc.) are analyzed within a structural section, subheadings (intermediate headings) must be used for each such an aspect;

3.3.6. layout (appearance) of headings and subheadings must be different;<sup>6</sup>

3.3.7. all main concepts and phrases of special importance throughout the text must be written in **bold**;

3.3.8. when using foreign, including Latin words and phrases are used in the text, they must be written in *italics*;

3.3.9. each paragraph of interpreted articles must be numbered with Arabic numerals.

---

<sup>5</sup> Commentary must initially address general issues and then proceed sequentially to specific issues.

<sup>6</sup>For instance, when one is written in **bold**, the other can be written in **italics**, but both cannot simply be written in **bold**.

#### **4. The procedure for referencing the materials used in the interpretation**

4.1. Precise references to the materials used in drafting of the interpretation must be provided. Such references must reflect the following information, being sufficient for easy identification (finding) of the relevant material (source) and its related structural element:

4.1.1. type of material (normative legal act, article, report, methodological tool, opinion, etc.);

4.1.2. accurate title of the material in Azerbaijani (if the material is in a foreign language, its title in original language must also be indicated in parentheses);

4.1.3. name of the author of the material or the institution that prepared (approved) it;

4.1.4. number of the material;

4.1.5. date of publication;

4.1.6. place of publication (book, journal, website, etc.);

4.1.7. number of the page or structural element;

4.1.8. any other information considered necessary for precise identification (finding) of the material and its structural element.

4.2. When referencing judicial acts related to the interpreted issue, it must be guided in referencing the acts of the European Court of Human Rights, the Constitutional Court, and the Supreme Court of the Republic of Azerbaijan.

4.3. When referring to legal positions in court decisions, it is not required to include the facts of the case. Additional details related to the relevant court decision may be provided by giving a footnote in the text of interpretation.

#### **5. The procedure for indicating quotations in interpretation**

5.1. The following rule must be observed when quoting any material used in drafting the interpretation in the commentary:

5.1.1. if the quotation is short<sup>7</sup> or is one sentence, it is enclosed within quotation marks ("\_\_\_") in the text, and the reference is made to the source of the quotation by providing a footnote<sup>8</sup> at the end of the quotation.

---

<sup>7</sup> Here «short» means sentences or phrases with a total length of not more than two lines.

<sup>8</sup> Such footnote must be made in accordance with the requirements set out in clause 4.1 of this Instruction.

**Example:** "...Prof. Sabir Allahverdiyev has expressed his opinion on the matter, stating that "the main and significant aspect for the recognition of the institution as a legal entity is that it must possess property independence (separation)."<sup>9</sup> As it appears..."

5.1.2. when the quotation is lengthy or consists of two or more sentences, it is written by a reduced font of less than 2 points in a separate paragraph within quotation marks ("\_\_\_"), and maintaining a 5 mm distance from the left and right margins of the main text. A reference is made to the source of the quotation by providing a footnote<sup>10</sup> at the end of the quotation;

**Example:**

"Although the regulation of labor relations is based on the principle of ensuring legal equality of the parties, as a rule, the subjects of labor law are not in a de facto equal position. Labor relations differ from civil relations due to the presence of a certain power-subordination feature between the employee and the employer (for example, economic dependence of employees on the employer, obedience to the work regime determined by the employer, application of disciplinary sanctions to the employee, etc.)."<sup>11</sup>

5.1.3. When the text of quotation is given with an amendment, the amended part (letter, word, or phrase) must be given in square brackets<sup>12</sup>.

5.1.4. When any part of the text of quotation is removed, the removed part is indicated within square brackets with three dots<sup>13</sup>.

## 6. The procedure for citing examples in interpretation

6.1. Commentary may contain examples of illustrations (hypothetical situations) related to application of separate norms.

6.2. Examples must be included according to the following sample, keeping a margin of 5 mm from the left and right edges of the main text, and writing the word "Example" above it in an italic font reduced by at least 2 points:

**Example:**

*"A" decides to donate 200 rare books he has collected for a long time to the university where he works and informs the rector of the university about his intention. However, "A" sets out a condition regarding the donation of books. So, the books to be donated must be collected and displayed at a separate stand in the university library. A's offer is not considered an offer because it is conditional.*

---

<sup>10</sup> Such footnote must be made in accordance with the requirements set out in clause 4.1 of this Instruction.

<sup>12</sup> [example]

<sup>13</sup> [...]



## 7. The requirements for the content of an interpretation of an article

7.1. When drafting the interpretation of separate articles of a legal act, it is recommended to observe a model structure consisting of the following sections:

7.1.1. the **subject matter, purpose and history** of legal norms stipulated in the article:

- 7.1.1.1. regulated aspects of relevant public relations by the norm;
- 7.1.1.2. purpose of legal regulation;
- 7.1.1.3. brief information about historical roots of the norm;

7.1.2. the **function** of the interpreted norm in the context (system) of other provisions of the normative legal act;

7.1.3. **comparative analysis** of the interpreted norm with similar norms in legislation of **foreign countries**, as well as with the **previous edition** of that norm;

7.1.4. **the scope and conditions** of application of the norms stipulated in the article:

- 7.1.4.1. cases of the norm application;
- 7.1.4.2. conditions for the application of the norm in different cases;
- 7.1.4.3. subjects to which the norm applies;
- 7.1.4.4. **various possible interpretations** of the same norm that are contradictory but equally plausible, and evidences (arguments) supporting each interpretation;

7.1.5. explanation of **main concepts and terms** used in the article;

7.1.6. explanation of **other** important concepts, terms and aspects (in the order they are found in the norm);

7.1.7. **defects** in the text of legal norms (grammatical and terminological deficiencies affecting the meaning of the norm, incorrect translation issues<sup>14</sup>, etc.);

7.1.8. **practical problems** in the application of legal norms;

7.1.9. **consequences of violation** of legal norms and **liability** for it.

7.2. Depending on the form and content of the article being interpreted, separate sections of the structure outlined above may be removed, combined, or new sections may be added to the structure.

---

<sup>14</sup> For instance, when the text of the normative legal act prepared according to the model laws of international organizations, the text of the treaty to which the Republic of Azerbaijan is a party in the Azerbaijani language, etc., differs from the official (original) language of the relevant treaty or other act to such an extent that it is distorted.