



National Assembly of the Republic of Serbia

The Uniform Methodological Rules for the Drafting of Regulations



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I. Reasons for adoption of the Uniform Methodological Rules for the Drafting of Regulations

In March 2010, the Legislative Committee of the National Assembly of the Republic of Serbia adopted an act entitled Uniform Methodology Rules for the Drafting of Regulations, soon after the Law on the National Assembly came into effect, which provided, in Article 8, Paragraph 2, a legal basis for their adoption. The implementation of the Uniform Methodology Rules for the Drafting of Regulations began as of 1 July 2010 and since then, the Rules became binding and were applied in drafting proposals of all general acts submitted to the National Assembly for adoption.



The Legislative Committee has, within its competences that include reviewing of unique legislative methodology issues and other issues of the unique legal and technical revision of acts, noticed certain problems while considering a large number of Bills and has delivered legal opinions on them.

It has been noticed that Bill proposers do not have a unanimous approach to certain issues of the legal and methodological drafting of regulations, which results in different practices and inconsistencies of laws, e.g. in determining the content of introductory parts, the scope of issues and relations that should be regulated, in determining the penal provisions, in drawing up transitional and final provisions, in establishing and systematizing the authorities for the passage of legal regulations. A partic-

ular problem that has been noticed is the lack of accurate and consistent legal terminology, instead of which some colloquial expressions are frequently used which may result in imprecision and may cause misunderstanding of the legal meaning of norms.

On the basis of the aforementioned, it was concluded that it would be useful to produce an act entitled Uniform Methodology Rules for Drafting Regulations which would contribute to the promotion of regulations' drafting and ensuring the unique methodology is applied in preparation thereof.

A question of the nature and content of such an act has immediately arisen. Deliberation started



from the theoretical viewpoint that there are two aspects of normative activity. One aspect is to provide, in developing the text of a draft law, politically acceptable, professionally feasible and appropriate solutions. The second aspect is to have a clear and precisely prepared draft law, as regards the legislative drafting techniques.

It is not only a question of what the subject of standardization is and how it should be performed but the manner of formulation of the subject matter to be regulated. Such a division of two kinds of normative activity, i.e. a distinction between the law development procedure in the sense of the tangible regulation of certain social relations and the procedure of its processing as recognized by Yoering, Stammler, Geny and other renowned theorists. This position is accepted as grounded and useful for the purpose of determining the contents of The Uniform Methodological Rules for the Drafting of Regulation.

At the outset of the development of the Uniform Methodological Rules for the Drafting of Regulations, a question arose regarding the matters they govern. Is it possible to standardize and make the legislative drafting rules legally binding? The application of legislative drafting is not only a simple mechanical and technical transposition of approved politics guiding legal objectives, into legal form. There is always an aspect of creativity in this process, which cannot be fully pre-defined and precisely regulated.

All these issues had a bearing on the appearance and form of the adopted act, i.e. they had an impact on our decision to have the Uniform Methodological Rules be considered an act which shall generally standardize all issues concerning the regulations' contents, the form, language, style and the manner of drafting; rules for amending regulations, the creation of consolidated text and the correction of regulations, reasoning of regulations and the manner of drafting amendments to the draft regulations.



II. Methodological rules applied prior to 1st July 2010

In May 1987, the Executive Council of the Assembly of the Socialist Republic of Serbia adopted a Conclusion on the manner of preparation and revision of laws and other regulations and general acts passed by the Assembly of the SR of Serbia, Executive Council of the Assembly of the SR of Serbia and the administrative authorities of the Republic. By its nature it was an example of expert instructions having binding effect on the institutions which developed regulations.

In 1997, the Legislative Committee of the National Assembly passed an act entitled "Some legal and methodological issues concerning legislative drafting". These were expert instructions used by the Legislative Committee, within its competences, that included reviews of unique legislative methodology issues and other issues significant to the unique legal and technical revisions of acts passed by the National Assembly.

In December 2002 the Government, Republic Secretariat and the Agency for the Promotion of Public Administration issued "The Methodology of Legislative Drafting", which was intended for use as an expert guidelines manual, by jurists employed within public administration institutions.

III. Methodological rules currently applied

The Legislative Committee of the National Assembly adopted the Uniform Methodological Rules for the Drafting of Regulations ("Official Gazette of RS" No. 21/10), which were to be from then on applied to all regulations presented to the National Assembly.

The Government reached a conclusion on the adoption of methodology for drafting by-laws ("Official Gazette of RS" No. 75/10 and 81/10).

The Assembly of the Autonomous Province of Vojvodina passed a Decision on legal standardization ("Official Gazette of APV", No. 75/10 and 81/10), stipulating the rules for preparation and drafting, legislative drafting technique, subsequent scrutiny of effect and other issues relating to decisions passed by the authorities of the Autonomous Province of Vojvodina in the course of the performance of work within its competence.

A number of local authorities passed their own decisions relating to the methodology of drafting regulations that they enact.



IV. Comparative legal solutions

The majority of the European states already have legislative drafting rules, applied in the course of drafting regulations to be enacted by state authorities. There are differences in the compulsory nature of regulations. In the prevailing number of countries it is the case of expert methodological instructions, while in other states there are generally binding rules. There are differences in the extent of regulation of legislative drafting rules.

V. Procedure for adoption of The Uniform Methodological Rules for the Drafting of Regulation

A proposal for the adoption of the Uniform Methodological Rules for the Drafting of Regulations, or a proposal for their amendment, may be submitted by a member of the Committee on Constitutional and Legislative Issues. If the proposal is deemed to be justified, the Committee shall pass the document defining an act governing the The Uniform Methodological Rules for the Drafting of Regulation. In case the Committee decided the proposal is not justified, it shall inform the amendment proposer thereof.



VI. Contents of the Uniform Methodological Rules for the Drafting of Regulations

Structure and Title of the Regulations

- **Title** – basic element for the identification of regulations.
- **Recitals** – contains the subject of a given regulation.
- **General Provisions** – the subject of regulation and principals in the area of regulations that are regulated by regulations.
- **Definition** – explanation of the meaning of specific terms used in the regulations.

Main Part – contains regulations that regulate relations which are the subject of regulating:

- Rights and Obligations – provisions regarding the rights and regulations of the legal subjects, as well as the procedure for their realization, i.e. execution
- Authorization – provisions about by-laws that need to be adopted in order to implement the regulations
- Penalty Provisions – provisions about penalties in the case of violation of certain provisions of regulations

The Final Part consists of:

- **Transitional Provisions** – relation between regulations which cease to be valid and new regulation, regarding their effect on the cases, situations and relations which arose during the period of validity of earlier regulations.
- **Final Regulations** – information about regulations that are abolished due to entry into force of a new regulation, and
- **Entry Into Force** – determining the time limit when, after publishing, a regulation enters into force.

Regulations Attachments – content that cannot be expressed normatively is expressed as regulations attachment.

Form of Regulations represents internal classification of regulations which has the aim of grouping the matter so it can be systematized and easily implemented:

- **Part** – the theme unit of regulations;
- **Chapter** – theme unit is classified on more functional or meaningful units;
- **Section** – the classification and systematization of the regulations matter under the Chapter;
- **Subsection** – the classification and systematization under the Section;



- **Article** – one or more norms that represent the logical unit;
- **Paragraph** – a part of the Article, each begins with a new row.

Depending on the nature of the regulations, if standardization is explicitly done also used are:

- Item
- Sub-item
- Indent

Language, Style and Method of Writing the Regulations:

- The use of contemporary Serbian language
- Technical terms
- Foreign words
- Style of writing regulations
- Unique terminology
- Reference to the particular provisions instead of repetition
- Shortened terms using abbreviations
- Writing of dates
- Writing of numbers
- Use of verbs
- Use of singular
- Use of gender
- Formulation of authorities
- Taking over the provisions of the higher rank
- Implementation of other regulations

Explanation of the regulations draft includes:

- Constitutional, i.e. legal basis for adopting the regulations
- Reasons for adopting the regulations
- Explanation of basic legal institute and certain solutions
- Analysis of the effects of regulations
- Assessment of financial funds necessary for the implementation of regulations
- General interest for which retroactive measures are proposed
- Reasons for adopting laws by urgent procedure
- Reasons for entry into force during a period less than eight days
- Review of the provisions that are changing, i.e. being amended

Amendments to the Bill or other general act in the Assembly's procedure contain:

- Legal grounds for submitting an amendment
- The title of the draft regulations which the amendment refers to
- Above the text of the amendment the word "amendment" needs to be written
- The provision that is changing and proposed solution need to be stated (deletion, amendment)
- Explanation of amendment
- Signature of the submitter of amendment



VII. Results of the application of the uniform methodological rules

During the previous period the Government of the Republic of Serbia was extremely active as regards the drafting and submitting of draft laws. At the same time, it is obvious that the governmental services great efforts to adjust these draft laws with the Uniform Methodological Rules. As a result, the legislative drafting rules have been improved immensely. In the case of minor departures, the subject draft laws were not rejected, but rather adjusted with the legislative drafting rules by means of amendments filed by competent parliamentary committees and MPs, which has contributed significantly to the acceleration of parliamentary legislative activities.

The Uniform Methodological Rules have achieved the desired effect in the case of draft legislation supplied by the Members of Parliament. It is all the more important with regard to legislative drafting rules and the quality of the review of amendments filed by MPs, which facilitates their introduction in the legal text, in the case that they are adopted by the National Assembly. When considering and deliberating on the acts to be passed by the National Assembly, the Committee on Constitutional and Legislative Issues shall ensure that they are in conformity with the Uniform Methodological Rules. In order to monitor their implementation, the Committee stages public hearings.

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