

DECISION ON RECOGNITION OF PHYSICAL EVIDENCE: COMPOSITION AND STRUCTURAL FEATURES OF THE DOCUMENT

Antonina Semyonovna Shcherbak

Doctor of Philology, Professor of the Department
of Russian and Foreign Literature Samarkand State

University named after Sharof Rashidov Samarkand, Uzbekistan,

Doctor of Philology, Professor of the Russian Language Department Tambov State

University named after G.R. Derzhavina Tambov, Russia

ant_scherbak@mail.ru

Umida Ramazonovna Pulatova

Associate Professor Tashkent State Law

University Tashkent, Uzbekistan

pulatovau@mail.ru

Abstract:

The compositional and structural components of a legal text are considered - a procedural document of a decision in which the body of inquiry or the investigator sets out and justifies the decision made during the investigation. The structural parts of a legal document, the structural rules for drawing up a legal document (eventual, establishing and prescriptive information) are described, and an example of a sample Resolution on the recognition of material evidence is given.

Keywords:

Resolution, procedural document, composition and structure of the genre of the resolution, language of the legal text, Resolution on the recognition of material evidence.

Introduction

"Any procedural actions and their results must be recorded in writing in the form of appropriate documents. The latter include decisions that consolidate decisions both at the stage of initiating a criminal case (resolution on initiating a criminal case) and at the stage of the preliminary investigation (resolution on bringing as an accused, resolution on separating the materials of the criminal case into separate proceedings and decisions on appointing a trial examination)" [Donskova 2020: 149].

Thus, according to Article 36 of the Code of Criminal Procedure of the Republic of Uzbekistan, the investigator has the right to: initiate and terminate a criminal case, refuse to initiate it; detain and interrogate persons suspected of committing crimes; carry out investigative actions provided for by this Code; make decisions on involving a person in a

=====

case as a suspect; make decisions on involving a person in a case as an accused and on choosing a preventive measure against him, etc., as well as, in accordance with Article 90 of the Code of Criminal Procedure of the Republic of Uzbekistan, consolidate evidence in the protocols. Responsibility for maintaining protocols at the stage of inquiry and preliminary investigation rests with the inquiry officer and the investigator.

The protocols include: information about the persons participating in the investigative or judicial action, an explanation to these persons of their rights and obligations; place and time, conditions, progress and results of investigative or judicial action, description of material objects discovered and their signs that may be important to the case; indications of the facts that participants in the investigative action or trial asked to verify; their testimony, explanations, comments about what is happening; their submitted petitions, complaints, challenges; facts of violation of order during an investigative action or during a trial, as well as measures taken to suppress and prevent these violations.

At first glance, this activity may seem commonplace to those unfamiliar with the work of an investigator and interrogator, which in reality is a responsible and painstaking work that requires the document compiler to have certain language knowledge, skills and abilities, the basics of which should be taught at the university: to train specialists for their future specialty or relevant field of legal activity.

Despite the existing possibilities for using information technologies in various fields of activity, it is not enough for an investigator to have computer skills. Undoubtedly, these skills make the work of the investigator much easier, but still require him to have a conscious attitude towards drawing up the document [Aisenov, Kinzhebaeva 2015; Vorontsova, Khoroshko 2008; Zagorsky, Kachalov 2014; Pulatova 2023].

The future specialist must have not only professional knowledge, but also combine linguistic knowledge in the space of a legal document on the problem of understanding the language of the procedural document of the ruling by its addressee, i.e. language rules for writing legal documents: norms of literary language, lexical and grammatical means functioning in the texts of decisions, formality of style and features of procedural documents, types of information and compositional and structural parts of the document, structural rules for drawing up legal documents [Starodubova 2022; Khidoyatov B.B., Bobokulov, Nodirov 2018; Bagamaeva 2017].

Scientists identify types of “difficulties of different levels and nature that people encounter when they need to read and understand an official text” [Belov, Gulida 2019: 95-96], legal difficulties include:

1. Standardity of administrative and professional text, which requires gaining experience in reading this type of text; standardization is manifested not only in the choice of linguistic means, but also in standard forms of documents, in which generally accepted forms of presentation and a certain arrangement of structural and compositional parts are required.

2. Непривычные правила организации текстового материала, объемность текста из-за неоднократного дублирования номинаций. Например, в текстах судебных документов иногда присутствие многословия, наиболее типичными являются плеоназм и тавтология. Ср.: взыскать денежную сумму 10000 рублей задолженности, частная собственность (указано словосочетание «денежная сума» и приводится «10000 рублей», что, по сути, и отражает денежную сумму), словосочетание «частная собственность» включает в себя понятие «форма юридического закрепления за гражданином прав владения, пользования и распоряжения каким-либо имуществом», это одна из форм собственности.

3. Interpretation of legal terms hidden behind commonly used words and phrases [Belov, Gulida 2019: 96-97]. Difficulties in perceiving the text also include the stringing of cases - the arrangement of several identical case forms in a chain, which makes it difficult to understand the text. For example: "to solve the problem of accelerating the training of court employees..."

Procedural documents are documents that record the progress and results of investigative actions and justify the decisions made by the investigator. Among the large number of types of documents drawn up by the investigator, one can single out a separate Resolution document. Since the implementation of certain investigative actions is preceded by the issuance of a resolution, the production of investigative actions is associated, firstly, with the adoption and motivation of certain decisions, and secondly, with recording the progress and results of investigative actions.

In this regard, the production of the following documents is often required: Resolution on initiating a criminal case and accepting it for its proceedings, Resolution on forced arrest, Resolution on detention, Resolution on involvement in a criminal case as a suspect, Resolution on the selection of a preventive measure and etc. A resolution is a procedural document in which the body of inquiry or the investigator sets out and justifies the decision made during the investigation.

Since the decree document must obey certain canons, the main one is the division of the legal document into parts: introductory, descriptive, operative. The introductory part of some decisions indicates the prosecutor's resolution.

All the documents listed above are classified as decision documents in their standard content, since they reflect the decision taken to carry out individual investigative actions and justify the decision taken. All these documents, although similar in structure, differ in content.

All the documents listed above are classified as decision documents in their standard content, since they reflect the decision taken to carry out individual investigative actions and justify the decision taken. All these documents, although similar in structure, differ in content.

The structure of the decree genre contains compositional parts: introductory, descriptive-motivational and resolute (concluding) parts, which are connected by verbs in the perfect form - established, decided.

=====

The introductory part includes the name of the document, date and place of preparation, information about the inquiry officer, investigator, as well as information about the criminal case. This part is characterized by the use of gerunds, considered as part of the participle phrase.

The main part of the document may contain information that reflects the date of the event, the time of the event, the date of birth of the persons involved in the incident, the amount of money - all this data is expressed in digital designation, as well as using prepositions. Short and full participles are actively used. This part is characterized by the use of set expressions and clichés: based on what has been stated and guided by ..., which is a stable construction and is repeated in every resolution.

The resolutive part (the final part) is characterized by an obligatory-prescriptive character, which is expressed through verbs in the form of the infinitive as part of the verbal predicate. The infinitive in a sentence can occupy different places: at the beginning, in the middle or at the end of the sentence.

After the final part there may be applications; if there are several of them, they are assigned a corresponding serial number. The materials presented in the appendices, as a rule, have practical significance.

Consequently, the structure of the genre of the Resolution must reflect compliance with the requirements for the speech organization of the procedural document Resolution.

Technical design of the resolution

All letters in the title of the document "REGULATION" are written in capitals, and the title, which answers the question "about what?" - lowercase letters. Words connecting the introductory part with the descriptive part and the descriptive part with the operative part "established" and "decided" are printed in lowercase letters in the middle of the sheet on a separate line. After the word "Resolution", the time is printed at intervals on the left side of the sheet, and the place of its preparation on the right. Then, at double intervals, the position, rank and surname of the investigator (inquiry officer) and the rest of the contents of the introductory part are printed on the red line. After the introductory part, the word "installed" is printed and then the text of the descriptive part begins to be printed from the red line. After the descriptive part, the word "resolved" is printed, below which the text of the operative part is printed, indicating the points. One paragraph usually lists similar actions or decisions. The relevant paragraphs indicate the positions of persons who are obliged to comply with the instructions of the resolution. The surnames and positions of these persons are indicated in the dative case. For example:

Installed:

(states the reason and basis for initiating a criminal case against a specific person, indicating the last name, first name, patronymic).

Taking into account that there is sufficient data indicating the signs of a crime provided for by the Criminal Code __, guided by articles ____ of the Code of Criminal Procedure,

Decided:

1. Initiate a criminal case on the grounds of a crime provided for by ____ (clause, part, article) of the Criminal Code of ___, in relation to (last name, first name, patronymic).
2. Entrust the conduct of the preliminary investigation (to whom exactly: the name of the investigative body of the Investigative Committee... or an indication of the position of the investigator of the Investigative Committee..., special rank, surname, initials).
3. Send a copy of this resolution to (name of the prosecutor's office).

In conclusion, we can conclude that the future specialist must combine professional knowledge in the space of a legal document with linguistic knowledge, i.e. master the language rules for writing legal documents: norms of literary language, lexical and grammatical means functioning in the texts of decisions, formal style and features of procedural documents, types of information, as well as rules for structuring the text of a document: dividing it into appropriate compositional and structural parts.

References

1. Айсенев А.Б., Кинжебаева Л.Т. Русский язык для юристов. Тексты для чтения: учеб.-метод. пособие. Костанай: Костанайская академия МВД РК им. Ш. Кабылбаева, 2015. 148 с.
2. Багамаева З.З. Основы построения юридически значимых текстов: учебно-методическое пособие. Махачкала: Северо-Кавказский институт ВГУЮ (РПА Минюста России), 2017. 95 с.
3. Белов С.А., Гулида В.Б. Язык юридических документов: сложности понимания // Acta Linguistica Petropolitana. 2019. Vol 15.1. P. 56-105.
4. Воронцова, Ю.А. Хорошко Е.Ю. Русский язык для юристов (Практический курс): учеб. пособие для курсантов и слушателей вузов МВД России. Белгород: ООНИ и РИД БелЮИ МВД России, 2008. 108 с.
5. Донскова Ю.В. Речевые особенности процессуальных документов (на примере постановления) // Вестник Волгоградского государственного университета. Серия Языкознание. 2020. NT.19. № 6. С. 148-156.
6. Загорский Г.И., Качалов В.И. Процессуальные (судебные) акты в уголовном процессе: учеб. пособие для вузов. М.: РАП, 2014. 192 с.
7. Пулатова У.Р. Практикум по составлению процессуальных документов. Учеб. пособие. Т.: Издательство ТГЮУ, 2023. 143 с.
8. Стародубова Г.В. [и др.] Уголовно-процессуальные акты: учебное пособие для вузов / под редакцией Г.В. Стародубовой. 3-е изд. Москва: Издательство Юрайт, 2022. 477 с.
9. Хидоятов Б.Б., Бобокулов О.Б., Нодиров М.А. Процессуальные акты по уголовным делам: Досудебное производство. Учебное пособие. Т.: Издательство ТГЮУ, 2018. 332 с.

Sample
RESOLUTION

on the recognition of material evidence
"_____" 2007 Tashkent

Investigator of the prosecutor's office of the Yashnabad district of Tashkent, lawyer 2nd class
Sobirov A.R., having examined the materials of criminal case No. 122,

installed:

This criminal case was initiated on October 27, 2007 by the Yashnabad district prosecutor
A.R. Abdullaev upon the discovery of the corpse of Denis Sergeevich Somov, born in 1977,
under Article 97 Part 1 of the Criminal Code of the Republic of Uzbekistan and on the same
day accepted for his proceedings.

The materials of the preliminary investigation established the following that Yakunin Anatoly
Rafikovich, born on December 2, 1969,

On October 25, 2007, at approximately 4:30 p.m., after finishing work and drinking alcoholic
beverages, with my brother Sergei Rafikovich Yakunin, born on April 19, 1973, and work co-
worker Denis Sergeevich Somov, born on December 30, 1977, we arrived at the cemetery.
"Botkin", located on the territory of the Yashnabad district, then came to the grave of their
grandmother Saranina Klavdiya Nikolaevna, where, commemorating their grandmother, they
also drank alcohol.

While drinking alcohol, being drunk, due to a quarrel with Somov D.S. regarding a monetary
debt in the amount of 30,000 soums for the purpose of premeditated murder, taking advantage
of the helpless state of the latter, who was heavily intoxicated, for selfish reasons aimed at
getting rid of the debt of 30,000 soums, with particular cruelty struck the latter several blows
to a vital organ - three punches and two kicks to the head, after which, in order to conceal this
crime, he strangled him and fled from the scene of the crime. As a result of the injuries
received, Somov D.S. died at the scene.

According to the conclusion of the forensic medical examination No. 1243, the death of
Denis Sergeevich Somov, born in 1977, was due to mechanical asphyxia, as a result of
compression of the neck organs with a blunt object. He was also found to have physical
injuries in the form of a closed craniocerebral injury, brain contusion, hemorrhages under the
membranes and in the ventricles of the brain, soft tissues, which in itself could also be the
cause of death. The detected physical injuries in the form of bruises, soft tissue contusions
and abrasions of the head were caused by a blunt hard object shortly before death. During
forensic chemical studies in the blood of the corpse of Somov D.S. Ethyl alcohol was
detected in an amount of 2.6 ppm, this concentration usually causes severe alcohol
intoxication.

Men's shoes and a men's jacket, seized during the preliminary investigation from the accused
A.R. Yakunin, must be recognized as material evidence and added to the criminal case.

=====

Based on the above and guided by Art. 36, 203, 207 Code of Criminal Procedure of the Republic of Uzbekistan,

decided:

1. Confiscated during the preliminary investigation from the accused Yakunin A.R. recognize men's shoes and a men's jacket as material evidence and attach them to the criminal case.
2. The seized men's shoes and men's jacket should be stored in the evidence room of the prosecutor's office of the Yashnabad district of Tashkent until a legal decision is made.
3. A copy of the resolution should be sent to the district prosecutor for information.

Investigator of the prosecutor's office
Yashnabad district of Tashkent

Sobirov A.R.