

THE LEGAL ARTICLE AND THE METHODOLOGY OF COMMENTING ON IT: AN ANALYTICAL STUDY OF THE CONCEPT, STEPS, AND METHODOLOGICAL CONTROLS

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Abstract

The legal article is one of the most important academic exercises in legal studies, providing students and researchers with an opportunity to develop skills in legal analysis and reasoning. It also constitutes an effective methodological tool for addressing legal issues on the basis of precise scientific foundations. This study examines the concept of the legal article as a cognitive and methodological framework for analysing legal topics or discussing legal issues, integrating relevant legislative texts, doctrinal opinions, and pertinent judicial decisions. This study aims to highlight the various methodological steps that must be followed when preparing a legal article. These steps include understanding the topic and analysing its terms; formulating the problem statement; setting out the appropriate plan; and drafting the introduction, body and conclusion in accordance with the requirements of sound legal methodology. The study also examines the methodology for commenting on legal articles, considering this to be a scientific process that aims to assess the formal and substantive aspects of an article and determine the extent to which it complies with the methodological rules adopted in legal research.

The study takes a descriptive-analytical approach, describing the elements of the legal article, analysing its different stages and clarifying the controls that govern it. It emphasises the role of legal methodology in achieving quality legal writing and sound results. It concludes that the success of both the article and its commentary depends on the extent to which the researcher adheres to the rules governing legal research. Furthermore, it asserts that acquiring methodological skills is essential for advancing the level of legal academic production and strengthening the researcher's capabilities in legal analysis, criticism, and inference.

Keywords: legal article, commentary on the legal article, legal methodology, legal scientific research, legal analysis, legal writing, legal problem statement, methodological controls, legal studies, legal research skills.

Introduction

The legal article is one of the most important academic exercises in legal studies. As a scientific and methodological tool, its purpose is to hone students' and researchers' analytical and discussion skills in the context of precise scientific standards. The legal article goes beyond merely presenting information or assembling legal texts by constructing an integrated intellectual approach grounded in a deep understanding of legal concepts. It also involves assimilating various doctrinal views and judicial rulings related to the topic under study, and applying and analysing legal texts to reach sound scientific conclusions.

The importance of the legal article is heightened by the continuous development witnessed by contemporary legal systems. In this context, researchers are increasingly required to use critical and analytical thinking to understand emerging legal problems and propose well-founded scientific solutions. From this perspective, the legal article is an effective tool for evaluating students' mastery of legal methodology and their ability to address legal cases in a logical, organised manner that considers the rules of scientific research and the requirements of rigorous legal writing.

While the success of a legal article depends on the richness of its scientific content, it also requires adherence to a set of methodological controls governing the drafting process. This begins with understanding the topic and analysing its terms, continues with formulating the appropriate problem statement and preparing the corresponding methodological plan, and culminates in drafting the introduction, body and conclusion in a precise, balanced legal style. Commenting on legal articles is also an essential academic skill as it enables researchers to evaluate content, analyse methodological and substantive elements, and identify strengths and weaknesses.

Therefore, it is important to study the concept of the legal article and its characteristics, explain the basic steps required to produce it and highlight the most important methodological controls that must be adhered to when drafting and commenting on it. This consolidates methodological legal culture among students and researchers and strengthens their ability to produce scientific works characterised by accuracy, objectivity and methodological coherence.

To what extent does adherence to the rules and methodological controls when preparing and commenting on legal articles contribute to sound legal treatment of issues and ensure the quality of legal research?

This problem statement is divided into several subsidiary questions:

- What does the legal article mean, and what are its most important characteristics?
- What are the stages and basic steps for preparing the legal article?
- What methodological controls must be observed when drafting the legal article?
- How should the process of commenting on the legal article be carried out in accordance with sound legal methodology?
- How does complying with methodological rules impact the quality of legal analysis and its results?

This study relies on a descriptive-analytical approach. Specifically, it involves describing the concept of the legal article, clarifying its characteristics and essential components, and analysing the various steps and procedures related to its drafting and commenting. The study also highlights the most important scientific principles and formal and substantive controls that govern this type of legal writing. This enables an understanding of the mechanisms for preparing and evaluating the legal article on sound methodological grounds.

Additionally, the study uses a deductive approach to derive findings related to the importance of adhering to legal methodology in improving the quality of legal academic work and strengthening researchers' capacities for rigorous legal analysis and discussion.

Chapter One: The Concept of the Legal Article and Its Characteristics

Legal writing in the form of a legal scientific article is among the most important tools adopted in the academic field to address legal problems through methodological analysis and reasoning. For this purpose, it is necessary first to clarify the concept of the legal scientific article, to explain its nature and functions, and to identify the most important scientific and methodological characteristics that it should possess in order to achieve the intended educational and knowledge-related objectives. In this context, the study will first define the legal scientific article, then explain the concept of the "article question text," followed by highlighting the characteristics of the legal article and its structure, including its constituent elements.

Section One: The Concept of the Legal Article

The legal scientific article is a methodical, academic study in written form that addresses a specific legal problem through analysis and reasoning. It draws upon legal texts, doctrinal references and judicial decisions. It is written in precise, objective legal terminology within a balanced, structured framework (introduction, body, conclusion). The aim is to derive, evaluate, and/or extract sound scientific results from legal rulings¹.

Subsection One: The Concept of the Legal Article Question Text

This concise text is of a scientific nature and raises a political, economic, social or cultural issue that is relevant to contemporary realities. Alternatively, it may be of a legal nature with a direct link to the

¹- Article: 'From the verb (قال) (to say), the plural (أقوال) and the plural of the plural (أقوايل), said is followed by meanings such as (مقال), (قولة), (قيل), (قول), and (مقالة).' It is also narrated that Ibn Bari cites al-Hatthai addressing 'Umar, may Allah be pleased with him: 'Have mercy upon me; may the Sovereign guide you — because for every position there is a saying.' See: Ibn Manzur, Dictionary of the Arabic Language, previous reference, vol. 12, p. 222.

legal dimension. It typically concludes with a methodological instruction such as: ‘Analyse and discuss.’²

The aim is to encourage the candidate to think critically, identify a specific legal issue in the form of a question and address it using the methodology of a legal scientific article. The problem should be addressed through an analytical approach supported by legal reasoning within a structured composition including an introduction, body and conclusion.

Subsection Two: Characteristics of the Legal Scientific Article

The legal scientific article is one of the most important tools for academic training in legal studies, precisely because it requires strong analytical and methodological abilities. However, distinguishing it from the extractive memorandum remains a necessary pedagogical and methodological requirement—especially for students who confuse the nature of each of these two types of work. The following presents an academic overview of the characteristics of the legal scientific article, while indicating what corresponds to each of them in the extractive memorandum for the purpose of methodological clarification.

Item One: The Legal Scientific Article is Based on Analysis and Opinion

A legal scientific article is fundamentally based on breaking down the legal issue raised, analysing it and discussing related doctrinal and judicial trends. This process ultimately leads to the adoption of a clear legal position, supported by evidence and arguments. In this regard, students are required to demonstrate their ability to analyse, reason and consider competing views within a rigorous academic framework.

By contrast, the extractive memorandum is characterised by complete neutrality. The examiner’s role is limited to reproducing and organising the content of the documents without expressing personal opinions or legal preferences.

Item Two: The article requires students to draw on their prior learning and scientific stock of legal texts, judicial decisions, doctrinal opinions and general legal principles. These must then be employed methodically when addressing the topic. Students are assessed on the depth of their scientific training and their ability to apply research and analytical tools³.

Meanwhile, the extractive memorandum relies exclusively on the documents included in the case file. It does not permit reference to external sources or any personal information not contained within the file itself.

Item Three: The article addresses a general legal issue

In most cases, the legal scientific article addresses a general legal issue, such as legality/constitutionality, judicial guarantees, fundamental rights or constitutional review. These are conceptual and theoretical topics that are considered in relation to the general rules applicable to the various branches of law.

In contrast, the extractive memorandum usually deals with a specific case containing particular documents. The student is then required to summarise its content clearly and in an organised manner.

Item Four: The article is framed by a clear legal problem statement and a rigorous analytical plan

A scientific article must begin with a clear legal problem statement, presented in the introduction, which provides the framework for the research. The article’s plan is then generally constructed using a common two-part sectional structure (a dual plan of axes), ensuring a logical sequence in addressing the problem through a gradual analysis that leads to the scientific conclusion.

In the extractive memorandum, however, the plan is usually derived from the nature and content of the documents. Its purpose is to organise and present information in a brief, practical manner.

²- Guidance document for candidates for the competition to join the judiciary, January 2025 edition, El Qal‘a, Tipaza, pp. 8–9.

³- <https://www.esm.dz/wp-content/uploads/guide2025.pdf>

Item Five: The article uses a rigorous academic style that enables analysis and interpretation

The legal scientific article is characterised by a serious and formal linguistic style with ample opportunity for interpretation, explanation, analysis and comparison. Moderate expansion is acceptable, provided it serves the posed problem and strengthens the methodological structure of the discussion. Meanwhile, the extractive memorandum imposes a direct, concise and neutral style. It focuses on clarity of presentation and economy of language, without resorting to analytical breakdowns or extended explanations.

Item Six: The article seeks to establish a position and present proposals/solutions

The conclusion of the legal scientific article aims to summarise the results and reach a coherent scientific position on the topic addressed. It may also open up new avenues for discussion or propose legally sound solutions with scientific justification.

In contrast, if the extractive memorandum has a conclusion, it is limited to summarising the essence of the documents, without issuing evaluative judgements or adopting analytical positions.

In summary, the legal scientific article is an academic exercise intended to demonstrate the student's analytical, critical and reasoning abilities. In contrast, the extractive memorandum aims to assess the student's ability to understand, structure, summarise and maintain neutrality. Therefore, confusing the two necessarily leads to a methodological deficiency that affects the assessment of the student's academic performance.

The Second Requirement: The structure of the legal scientific article

A legal scientific article comprises three integrated elements: an introduction (with its components), an analytical body and a focused, coherent conclusion⁴.

Subsection One: Introduction

- A brief definition of the topic.

Formulate the legal problem statement or guiding question.

- Indicating the plan or main axes/sections concisely.

Subsection Two: The Body (Analysis and Discussion)

Dividing the answer into clear sections or elements.

Each axis should include an explanation, analysis, legal arguments and examples.

- Ensuring a connection between ideas to avoid fragmentation or distraction.

Subsection Three: Conclusion

- A brief synthesis of the most important results.

The results should be logically consistent with one another. This can be achieved by moving from the general to the specific, from theoretical foundations to practical application, and from legal texts to jurisprudence and real-life situations⁵.

Within each axis, writers should not merely limit themselves to description or reproduction. Instead, they must combine explanation, analysis and reasoning. First, the legal idea or rule under study is clarified. It is then analysed in terms of its causes, effects, limits and practical problems before being supported by available legal evidence, whether from legal texts, doctrinal opinions, judicial rulings or real-life legal examples. It is this integrated analytical approach that gives the article its scientific value, as opposed to narrative exposition or the simple compilation of ideas without discussion.

Finally, coherence between ideas is essential for the body of the text. Each paragraph should relate to what precedes it and prepare the reader for what follows. It is also important to avoid introducing ideas that are irrelevant to the legal issue or that go beyond the scope of the topic. Furthermore, it is advisable

⁴- Guidance document for candidates for the competition to join the judiciary, January 2025 edition, El Qal'a, Tipaza, p. 9.

⁵- Guidance document for candidates for the competition to join the judiciary, January 2025 edition, El Qal'a, Tipaza, p. 10. <https://www.esm.dz/wp-content/uploads/guide2025.pdf>

to use appropriate transitional expressions to preserve the unity of discourse and reveal the methodological thread that links the different parts of the discussion.

Subsection Four: Conclusion

The conclusion consolidates the results of the analysis. It is not a space for introducing new ideas. Accordingly, the writer should provide a concise summary of the most significant findings presented in the main body of the article, avoiding literal repetition and detailed re-explanation. The conclusion should be written in a calm and clear style⁶.

Finally, the conclusion should directly address the legal problem statement raised in the introduction. It must be logical and based on the analysis of legal texts, doctrine and judicial decisions to ensure coherence between the introduction, body and conclusion.

For applied or reform-oriented topics, the conclusion may also include proposals or recommendations. These may include calls for legislative amendments, guidance on judicial jurisprudence or improvements to the mechanisms for implementing a legal rule. However, such recommendations must be realistic and legally sound, and should be concise. It should be noted that they are not mandatory for all topics.

With this balanced three-part structure — an introductory section to prepare the discussion, a methodical analytical body and a conclusion to serve as a synthesis and final inference — the legal article takes its correct scientific form.

The Second Requirement: The Aims of the Legal Scientific Article

The legal article is not merely a written text. Rather, it is a methodological tool for evaluating legal reasoning and conducting organised analysis of legal issues. It has a general aim as well as specific objectives.

Subsection One: The General Aim

The wording in the guidance document states: “The aim of preparing the legal article is the ability to address the legal issue in a rational manner.”⁷

This means that the legal article does not only assess knowledge of laws or legal texts; rather, it measures the writer’s ability to engage in organized and logical legal thinking. In other words, it assesses their ability to analyze the legal issue, arrange ideas, connect legal texts to one another, and draw accurate and objectively grounded results—away from impressions or personal opinions.

From this statement, two essential factors emerge for achieving the ability to address the legal issue rationally:

Item One: Clarity of Thinking—that is, the candidate’s ability to distinguish the essential elements of the legal issue, to differentiate between the general rule and the exception, and to understand the relationship among the different legal texts.

Clarity of thinking enables the writer to understand the nature of the legal problem accurately, to identify the key points that require handling, and to avoid confusion caused by the multiplicity of information or the apparent complexity of legal provisions.

When reading a legal issue, the candidate first determines what is required, and then orders the documents according to their importance and logic, so that the analysis remains focused and direct.

Item Two: Coherence of Thinking — that is, the candidate’s ability to organise ideas in a connected and well-structured manner so that arguments and conclusions follow one another logically. Coherence prevents dispersion, resulting in a smooth, readable article. It also reflects the candidate’s ability to link legal texts and synthesise information to reach an objective conclusion.

⁶- Guidance document for candidates for the competition to join the judiciary, January 2025 edition, El Qal’a, Tipaza, p. 6.

⁷- Guidance document for candidates for the competition to join the judiciary, same reference, p. 8.

Building the article according to a clear structure — an introduction setting out the legal problem, a body explaining the logical analysis of the documents and a conclusion synthesising the results in a concise and consistent manner — reinforces this coherence.

Subsection Two: The Specific Objectives

The specific (partial) objectives may be clarified as follows:

The primary objective of the legal article is to enable the candidate or researcher to analyse legal issues and derive rules and results in an objective and logical manner.

This involves identifying the legal problem statement, organising ideas, linking legal texts and understanding the relationship between the general rule and the exception.

The Third Requirement: Scientific Thinking and Its Types

The students' guide states that students must make every effort to solve the given task, demonstrating their intellectual coherence — that is, their ability to organise ideas in a coherent and well-structured manner. In particular, the arguments and conclusions should be logically coherent. We address the concept of scientific thinking and its characteristics below.

First Branch: The Concept of Scientific Thinking

First item: thinking in language

Derived from the root (فكر) with the kasrah on the fa' (فكر يفكر تفكيراً).

Thinking means “applying one’s consideration to a matter”.

It is also defined as: “The operation of the mind with respect to what is known in order to reach knowledge of what is unknown”.

They say (*“to think about a problem”), meaning to consider it in order to find a solution⁸.

Second Item: Thinking in Terminology

In terminology, thinking is the mental process that precedes speech and action. It begins with understanding what we feel, remember or see, and then we evaluate what we understand in an attempt to solve theoretical or practical problems that we encounter in everyday life.

Third item: the concept of scientific thinking

Scientific thinking is defined as “the mental processes carried out by an individual to reach scientific knowledge, or the set of skills necessary to solve a specific problem in an objective manner”⁹.

Second Branch: Types of Thinking

There are four types of thinking: superstitious, philosophical, creative and scientific¹⁰.

First Item: Superstitious Thinking

Superstitious thinking is a type of thinking that was used by human beings in the earliest stages of human history. It is characterised by simplicity, superstition and an absence of logic when explaining or analysing phenomena. Those who follow this approach attribute all natural phenomena to supernatural or superstitious powers, such as the anger of gods, sorcery and similar phenomena.

Islam, however, liberated the intellect from superstitious beliefs and encouraged the pursuit of knowledge, understanding and rational thought.

Examples of superstitious thinking:

Believing that epilepsy is always caused by a jinn (spirit).

- Believing that a crow is an ill omen and taking it as a sign of bad luck.

Second item: Philosophical thinking

Philosophical thinking emerged as a result of the cumulative body of knowledge developed by humanity since the beginning of history. The roots of this mode of thought can be traced back to the ancient Greeks. Many of its most prominent characteristics were subsequently transmitted to Western and

⁸- Ibn Manzur, Lisan al-Arab, previous reference, under the letter Fa', vol. 11, p. 211.

⁹- Ali Jady, Methodology of Legal Scientific Research and Research Methods, previous reference, pp. 19–20.

¹⁰- Toumi akli, Research Methods and Interpretation of Texts in Legal Sciences, previous reference, pp. 70–71.

Muslim thinkers, upon whose intellectual labour the Arab civilisation was built. Those who follow this approach aim to understand the secret of human existence in a rational manner — that is, to grasp the status and position of human beings within this realm — through rational reflection on diverse phenomena and their logical analysis. This method seeks to connect specific phenomena to broader concepts such as the universe, life and death.

This method is adopted by a person in accordance with their capacity for reflection and analysis. It involves posing general questions and relying on logic and rational inference.

Examples of philosophical thinking:

Concluding that morality is acquired rather than inherited and that human beings are shaped by their environment.

Concluding that a person is not born knowing, but rather learns from life and lived experiences.

Third item: Creative thinking

Creative thinking is used to solve problems, invent things, and create in general. This type of thinking differs from the previous two in that it is characterised by intelligence, originality and the value of its output. Society can benefit from this value for a long period of time until more novel and beneficial ideas emerge.

Moreover, creative thinking is not limited to scientists and artists. It can also be personal, enabling individuals to find new ways of dealing with matters of daily life and human relationships. Through interaction, these ideas can then spread throughout society.

Examples of creative thinking:

- The invention of writing to document speech and communicate through messages.
- The invention of the electric stairway/elevator, aeroplanes and high-speed trains.

Fourth item: scientific thinking

Scientific thinking is used to explain specific natural phenomena, understand their causes and attempt to find logical solutions to them. This approach is adopted by people with a certain level of education or experience, enabling them to arrive at conclusions grounded in scientific facts. Similarly, scientists discover the causes of diseases and methods of treatment by applying their existing knowledge of the human body, viruses and how they work. Similarly, identifying everyday problems and the most logical solutions to them follows the same process, particularly in day-to-day activities.

Examples of scientific thinking:

- Discovering that infectious diseases are caused by viruses and germs and can be treated.
- Discovering that the Earth is spherical and revolves around the Sun.
- Discovering that the hormone insulin can be used to treat diabetes.

Third Branch: Characteristics of Scientific Thinking

As science advanced and human intellectual life developed, modern logic emerged and began to study modes of thinking across the various sciences. To achieve this, it adopted a scientific approach characterised by the following qualities:

First Item: Objectivity

Modern logic is based on solid foundations found within the different sciences, whether they are abstract, such as mathematics, or empirical, such as the natural sciences, or human, such as political economy and the social sciences. Scientific thinking rejects beginning with subjective emotional tendencies in observation, analysis and the search for causes. Instead, it begins with available information, hypotheses and facts within a framework of neutrality, making it a method of scientific reasoning.

Secondly, each science has its own methods of research and study, along with its own tools for experimentation, proof and establishing results. Modern logic does not study general formal rules, but rather the specific methods actually employed within each science. Naturally, the curricula of the sciences differ according to the phenomena they address. It is also universally accepted that specificity in no way contradicts the rules of logic or overlooks the vital interaction and interdependence among the different sciences.

Third item: Relativity

Modern logic does not claim to uncover absolute truths, nor does it assert that the rules it aims to reveal are fixed or purely abstract. Instead, it recognises that these rules depend on the level of development of a given science at a particular time. Since every truth we discover is linked to our prior experiences, whether in measurement or analysis, it will forever remain relative.

Furthermore, scientific thinking does not begin with facts that are considered absolute truths. It begins with information, observations, logical premises or hypotheses and treats them as potentially correct or incorrect. Within the logic of scientific reasoning, what is true is true to a specific degree, as is what is false. It is this relativity that makes it possible to conduct tests and experiments, and to use methods of proof to verify or refute hypotheses, revealing truth that will continue to be relative within the framework of scientific thinking.

In this sense, the idea of absolute truth contradicts the logic of scientific thinking. This logic is more consistent with superstitious, mythological and partisan forms of thought.

Fourth item: Causality

At its core, scientific thinking involves searching for causes. Every phenomenon has a cause, or a set of causes, that is fundamentally responsible for its occurrence. By identifying these causes, we can work towards solving problems and making decisions in a scientific manner.

However, in scientific thinking, causality is not merely the search for any causes. Rather, it is the search for objective, logical and real causes — causes that are acceptable to reason, and that can be known, measured and proven with respect to their existence and their relationship to the phenomenon whose causes we seek.

Fifth item: Plurality (multiplicity)

Another equally important feature closely connected to the principle of causality in scientific thinking is multiplicity. Scientific thinking does not assume that a single cause is necessarily responsible for a phenomenon. Rather, it recognises that there are multiple causes. Likewise, it does not treat a problem as necessarily resulting from one single factor, but rather as resulting from multiple factors.

Among these multiple causes and factors, there are primary and secondary causes; important and more important causes; essential (core) and marginal (peripheral) causes; and direct and indirect causes. Similarly, among multiple factors, there are fundamental and non-fundamental factors, as well as internal and external ones.

Sixth item: Organisation

Organisation is a fundamental characteristic of scientific thinking. The steps of research require organisation, and available information must be classified and selected. The causes identified must also be sorted, distinguishing between primary and secondary causes, whether direct or indirect.

Without organisation, steps become confused and causes become mixed. Thinking becomes chaotic from the outset in such circumstances, leading to risks such as getting lost in a maze of ideas, being overwhelmed by secondary information, aimless debate, losing sight of the primary causes and the goal, and being unable to complete the research, solve the problem or make the decision.

Seventh Item: Interconnection (Relationality)

Scientific thinking involves examining the relationship between the phenomenon being studied, the problem for which we seek a solution or the issue on which we reflect and discuss in order to make a decision about it, whether through that same phenomenon or other related phenomena.

In random (unsystematic) thinking, phenomena are treated as isolated from one another. In superstitious or mythological thinking, each phenomenon is backed by a superstition or myth.

However, scientific thinking is characterised by its comprehensiveness and interconnectedness. Phenomena are interrelated and interwoven. Some phenomena, such as historical events, function as links in a chain: each link is preceded and followed by others. Other phenomena, such as social events, form a network of relationships between phenomena. For instance, unemployment cannot be considered in isolation from other phenomena such as economic crises, poverty, social violence and underdevelopment, as well as other economic, social and political phenomena.

Similarly, despite the specificity of each discipline, the natural sciences are interconnected. This interconnection in scientific thinking prevents researchers from searching for a single cause behind the occurrence of a phenomenon or problem. It also prevents events and phenomena from being isolated from one another or separated from their surroundings.

Eighth item: Purposefulness

Scientific thinking is not aimless or without purpose. Rather, it is purposeful thinking. From the outset, it aims to solve a problem, make a decision, explain a phenomenon or examine an issue and take a position on it.

Thus, scientific thinking is the mental process through which problems are solved or decisions are made scientifically through systematic and organised reasoning.

Fourth requirement: Plans in the Scientific/Academic Article and Their Types

The style guide states that a good plan is composed of interrelated elements that are consistent and respect a binary structure (i.e. division into two main parts/categories) derived from the core of the subject. The guide also indicates that there are two types of plan for preparing an article:

‘There is no plan conceived in advance that is acceptable for any topic. Nevertheless, it is possible to indicate that two major types of planning exist:

- Plans of organisation, which aim to structure the elements of the topic¹¹.

Plans of ideas, in which inference from their most basic assumptions — at least at the level of headings — can be treated as self-evident.

One way to comment on this passage is to explain the conceptual framework of a legal article plan.

First Branch: The Concept of a Legal Article Plan

A legal article plan is the systematic structure upon which the answer in the legal article is organised. It is not limited to arranging headings, but rather represents a comprehensive mental conception of how to address the legal issue raised through interrelated and integrated axes. It determines the stages of thinking, analysis and reasoning, ensuring the answer is internally coherent and reflects a clear scientific methodology.

Second Branch: The Function of the Plan

The plan controls the direction of the answer, ensuring logical progression between ideas so that the response is not merely a compilation of scattered information or unproductive digressions. Thanks to the plan, a legal analysis is presented in an orderly manner, progressing from identifying the issue to analysing, discussing and evaluating it, which allows the examiner/marker to follow the line of thought clearly.

Third Branch: The Role of the Legal Issue (Problem/Dispute) in Guiding the Construction of the Plan

The legal issue plays a key role in shaping the plan, as it dictates the nature and direction of the treatment. Each axis or element of the plan must either partially answer the issue or serve it directly. Therefore, the plan is derived from analysing the key terms, breaking down the question and identifying its essential elements, rather than from applying ready-made templates.

Fourth Branch: The Relationship Between the Plan and the Nature of the Question

The plan must be derived from the question itself — its structure, terminology and boundaries — so that it reflects the writer’s personal interpretation of the question in legal terms. In contrast, a copied plan is one that has been prepared in advance and imposed on any topic, which contradicts the spirit of the legal article that aims to assess one’s ability to conduct personal legal analysis.

Conversely, a plan extracted from the topic is developed by analysing the terms, linking them and defining the legal issue. Consequently, it closely aligns with the nature of the question at hand.

¹¹- Guidance document for candidates for the competition to join the judiciary, same reference, p. 9.

Fifth Branch: Conditions for the Integrity of the Plan – Form and Substance

A plan's formal integrity requires clear headings, brevity and linguistic coherence with the formal language of the legal article. Substantive integrity relates to the extent to which the headings genuinely express the elements of the question and accurately translate the legal issue into specific treatment axes. Furthermore, the interrelation and sequential order of the plan's elements are essential to its substantive soundness because a lack of coherence implies an absence of methodology, even if the headings appear correct in isolation¹².

Sixth Branch: Criteria for Selecting the Appropriate Type of Plan

The type of plan is chosen according to the following criteria:

- the nature of the scientific method (explanatory, analytical, evaluative, critical, etc.);
- the nature of the legal issue (binary, multifaceted, composite/structural, etc.).

Seventh Branch: Types of Plans in the Legal Article

The binary plan is one of the most common types of plan used in legal articles. It may appear in two main forms:

First Item: The Hierarchical Binary Plan (Sequential/Bi-Level)

This refers to plans whose primary aim is to organise the elements of the topic in the order in which they are presented. These plans focus on arranging the elements in a logical, chronological or thematic order. Examples include:

- Presenting the rule and then its applications.
- Defining the concept, then explaining its characteristics, and finally stating its effects.

These plans are used when an explanation or analysis of clearly defined elements within the question is required.

Second Item: The Binary Plan Based on Ideas

In this type, reasoning plays a decisive role. Legal reasoning and the legal idea become the central axis of the construction, even at the level of headings. Here, the plan does not merely display elements, but is formulated to highlight a particular intellectual stance or critical analysis. This category is more closely linked to resolving the legal issue.

Eighth Branch: Patterns of Constructing the Binary Plan

In a legal article, the plan of sections/axes is most commonly applied, compared with plans of 'mabahith' (main discussions/chapters) or plans of steps. This can be explained briefly as follows:

First Item: The Plan of Mabahith

In this approach, the article is divided into two main mabahith. Each mabahith is then subdivided into demands, as follows:

First Topic:

First Requirement:

Second Requirement:

Second Topic:

First Requirement:

Second Requirement:

Second Item: Plan of Sections (Structure of Subtopics)

This is typically a dual-plan, usually based on two main axes. In this approach, the answer is divided into two major sections, and each section is subdivided into numbered elements, as follows:

First Axis:

First: Second:

Second Axis:

¹²- Guidance document for candidates for the competition to join the judiciary, same reference, p. 9.

First: Second:

This format is often used when the aim is to highlight a conceptual or analytical line of reasoning within each axis.

Third Item: Stages-or-Steps Plan

This is followed when the legal treatment is presented as a logical sequence of interconnected steps:

Step One:.....

Step Two:.....

Step Three:.....

Fifth requirement: Scientific controls for writing the legal article

The writing of a legal article is based on a set of scientific controls and a scholarly methodology that give it an academic character and intellectual rigour. Merely presenting legal information is not enough; the focus must be on how to organise and process such information, transforming it into a coherent scientific analysis grounded in accuracy, objectivity, and sound reasoning.

According to this perspective, the legal article is governed by the following controls:

- The methodical structure of the legal article.
- Reliance on reliable sources.
- Analysis and conclusions instead of mere narration.
- Legal inference and logically reasoned analysis.
- Objectivity and neutrality of style.

First subtopic: The Methodical Structure of the Legal Article

By ‘methodical structure’, we mean that the answer must be written within a clear and organised framework. It should consist of an introduction, in which the problem/issue is raised alongside the plan of treatment, followed by a methodically arranged presentation organised into interrelated sections/axes. Finally, it should include a conclusion that summarises the most important findings and presents the preponderant opinion (the most persuasive view).

This structure provides the article with logical coherence and demonstrates the student’s ability to organise ideas in accordance with the principles of scientific research.

Second Subtopic: Reliance on Reliable Legal Sources

A legal article should not be based on personal impressions, but rather on precise scholarly references. Accordingly, the analysis should be based on legal texts, such as the Constitution, statutes/laws, and international agreements, as well as the views of jurists/scholars and judicial decisions, in addition to approved academic studies.

Relying on these sources ensures the article’s scientific strength and grants it legal credibility.

Third subtopic: Analysis and Conclusions Instead of Narration and Quotation

A legal article has scientific value not merely because it recounts information, but because it can analyse, discuss and derive results from that information. Therefore, students should interpret legal texts, examine how well they align with reality, compare different positions and reach objective conclusions.

In this way, the article shifts from being a mere summary to becoming a piece of scientific work that is truly ‘thought through’¹³.

Fourth subtopic: Logical Legal Inference and Reasoned Justification

Every idea or result presented in the article must be based on a clear legal or logical rationale. This is achieved by linking the conclusions to legal texts, judicial jurisprudence (case law) or general legal principles.

Reasoned justification is at the core of legal thinking because it shows why the author arrived at a given ruling and makes the article persuasive and coherent.

¹³- Guidance document for candidates for the competition to join the judiciary, same reference, p. 8-9.

Fifth subtopic: Objectivity and neutrality in style

Legal writing should be characterised by calmness, balance, and the avoidance of emotion or bias. The author should not adopt a position unless it is supported by legal and logical evidence and should present differing views with respect and impartiality.

Objectivity means that law is the primary reference for the ruling, not personal inclinations or preconceived positions.

Sixth requirement: Methodology of Legal Analysis for the Legal Article

A scientific legal article is based on a systematic, objective analysis. Rather than merely presenting information or rephrasing legal texts, it breaks down the legal issue, examines it and establishes it scientifically.

Accordingly, sound legal analysis relies on a set of integrated scientific mechanisms, the most important of which are:

- Analysis of legal texts.
- Comparing juristic positions (doctrinal views).
- Identifying trends in judicial rulings.
- Linking legal reality to general principles.
- Presenting a reasoned, scientifically grounded legal opinion.

First subtopic: Analysis of legal texts

The legal text is the essential starting point for any legal analysis. Therefore, the researcher or examiner must read, understand and analyse the text, as well as clarifying its scope of application, conditions and legal limitations.

It is also advisable to determine the text's legal status (e.g. constitution, ordinary statute, decree or agreement), the extent of its binding force and how it fits into the wider legal system.

The purpose of all this is to achieve a correct legal interpretation and lay a solid foundation for scholarly discussion.

Second subtopic: Comparing Juristic Positions

After analysing the text, the various legal schools that address the same subject are considered alongside the juristic views. The task here is not merely to present these views, but to compare them in terms of their arguments, strengths, and legal and factual foundations.

The author should highlight the points of agreement and disagreement among these positions to demonstrate breadth of knowledge and the ability to conduct constructive scholarly critique. This enriches the article, giving it a serious academic character.

Third Subtopic: Extracting Trends in Judicial Rulings

Judicial practice represents the practical application of law. Therefore, it is necessary to explain the position adopted by the domestic judiciary — or, where necessary, the comparative judiciary — regarding the legal issue under study.

This can be achieved by analysing the decisions of the Supreme Court, the Council of State, the Constitutional Court, and other relevant bodies, while clarifying the prevalent judicial trends and the extent to which they are stable or subject to development.

This reveals the practical reality of applying the law and how closely the judiciary aligns with legal doctrine and texts.

Fourth subtopic: Linking Legal Reality with General Principles

Law is not studied in isolation, but within its social, political and economic context. Therefore, legal issues must be linked to practical realities and their relationship to general principles, such as legality, legal certainty, justice, and the protection of rights and freedoms, must be clarified.

This linkage makes evident the impact of the legal rule in protecting society and regulating relationships. Likewise, this approach highlights the strengths and shortcomings of existing legislation.

Fifth Subtopic: Presenting a Juristic Opinion Scientifically

This section presents the scientific conclusion of the article. The author presents a personal juristic opinion on the subject, but not in an impressionistic or emotional manner. Rather, it must be based on what was previously established through the analysis of legal texts, legal doctrine, judicial practice and the surrounding reality.

The opinion must be supported by clear legal and logical arguments and indicate the solutions that are considered to be the most likely to achieve justice and legal coherence.

Second Topic: Methodical commentary on preparing the legal article

The guidance text concerning the methodology for answering in the legal article emphasises adherence to a set of formal and substantive controls. These controls form the basis of the scholarly structure's soundness and the quality of the drafting. Taking an integrated approach to both form and content ensures that a good legal answer is achieved, reflecting sound scientific and methodical awareness¹⁴.

The following two requirements will be used to discuss these controls:

First requirement: Observing formal controls

- Proper legal writing.
- Respecting the heading requirements.
- Respecting the plan/outline controls.
- The necessity of introducing headings.
- Using scientific knowledge within the limits of the question.

First subtopic: Proper Legal Writing

The guidance text states: 'Rules of language must be used correctly, paying attention to clear style and precise terminology, while avoiding complex and overly long sentences that may distract or inconvenience the examiner, as well as extremely short sentences and an oral conversational style.'¹⁵

This passage aims to ensure compliance with the rules of legal language when drafting the article, i.e. expressing the content in a sound legal-scientific style. This requires the candidate to observe the following controls:

- Correctness of language.
- Clarity of expression.
- Precision in terminology.
- Avoid complexity or excessive elaboration.
- Avoid tedious lengthening and inappropriate brevity.
- Refrain from using an oral, conversational style.

Accordingly, the controls of proper legal writing are as follows:

First item: Correctness of language

Legal writing requires strict adherence to the rules of Arabic grammar, morphology and spelling. Any linguistic error can affect the clarity and accuracy of the text. Sound language is the vessel through which legal ideas are presented, and any violation of language rules will reflect negatively on the text's value and scholarly credibility.

Second Item: Clarity of style

The candidate should adopt an official style characterised by simplicity and clarity. Ideas must be expressed directly and unambiguously, allowing for only one interpretation. Ambiguity in drafting may lead to different interpretations, which contradicts the nature of legal discourse, which is based on precision and discipline.

Third Item: Precision of Legal Terminology

¹⁴- Guidance document for candidates for the competition to join the judiciary, same reference, p. 8.

¹⁵- Guidance document for candidates for the competition to join the judiciary, same reference, p. 10.

Legal terminology must be used correctly and consistently. General or imprecise words should be avoided. A legal term denotes a specific meaning within a scholarly context, and is not merely a word. Negligence in using it may lead to misunderstanding or improper application¹⁶.

Fourth item: Avoiding complexity and exaggeration

It is advisable to avoid long, syntactically complex sentences, as well as stylistic embellishments and ornate formulations, as these burden the reader and make the text more difficult to read. The basis of legal drafting should be clear, straightforward phrasing without any linguistic affectation or exaggeration that adds no real meaning¹⁷.

Fifth Item: Moderation/balance in expression

A balance must be struck between concision and elaboration. The text should neither overwhelm and distract the reader with tedious lengthening, nor undermine the meaning with excessive brevity. Rigorously composed legal writing conveys the intended meaning fully using the fewest possible words without distortion or unnecessary additions.

Sixth item: Avoiding a Conversational (Oral) Style

The candidate must avoid an oral/conversational style or colloquial expressions and adhere to the formal nature of written legal language. This preserves the text's dignity and seriousness, reinforcing its scholarly and institutional character while avoiding any spontaneity or informality that would be inappropriate in a legal context.

Second subtopic: Respecting heading requirements

The guidance text states: 'It must be ensured that the paragraph headings are as short as possible and do not include verbs or punctuation such as question marks, exclamation marks, commas or colons.'¹⁸ It also states that headings must be linked to the following paragraph and expressed directly. They should be divided as little as possible, for example avoiding formulations such as 'the advantages of X and its disadvantages'.

The requirements for headings therefore include formal and substantive controls, as follows:

First item: Formal controls for headings

- The heading must be short and direct, without unnecessary elaboration.
- It should be phrased as a nominal sentence with an informative (declarative) character. It must constitute a clear, beneficial statement and must not be in the form of a question or exclamation.
- Avoid complex or double headings, especially those that include commas or colons.

Second item: substantive controls for headings

- The heading must accurately express the content of the following paragraph without ambiguity.
 - Headings should be formulated in direct, official legal language.
- The coherence of the headings must be observed, including their sequence and consistency, in a manner that aligns with the article's overall structure.

Third subtopic: Respecting the controls of the outline (plan).

The guidance text states: "Avoid copying the lesson plan or a book's plan. As far as possible, ensure that the candidate's outline stems from the proposed exam topic so that there is a connection between the two."

The requirements and controls for drafting the legal article plan therefore include:

- Originality and creativity: the plan must be innovative and arise from the candidate's own reasoning. It must also be consistent with the nature of the subject presented in the exam.

¹⁶- Guidance document for candidates for the competition to join the judiciary, same reference, p. 10.

¹⁷- Guidance document for candidates for the competition to join the judiciary, same reference, p. 9.

¹⁸- Guidance document for candidates for the competition to join the judiciary, same reference, p. 9.

- Avoid ready-made plans: The candidate should not copy outlines from lessons or articles they have previously consulted verbatim.
- Compatibility between the plan and the exam topic: The candidate must ensure that the structure of the plan is coherent with the requirements of the exam question.

Fourth subtopic: The necessity of introducing headings and the conditions for doing so

The guidance text states: ‘Pay special attention to introducing each paragraph. It must be possible to infer the main ideas the candidate will address without any ambiguity. The introduction may use the terminology employed in the heading.’

Accordingly, headings should not stand alone. Each paragraph should begin with a brief introduction that clearly and unambiguously communicates the main idea to the reader and incorporates the same key terms found in the heading.

The following controls are inferred from the paragraph:

- The candidate must introduce each paragraph and give it the necessary attention.

The paragraph introduction must be clear and highlight the main ideas that the candidate will present later.

- The candidate may use the terms mentioned in the paragraph’s title to strengthen the link between the title and its content.

Section Five: Employing Scientific Knowledge Within the Limits of the Question

The guidance states: ‘The candidate must use the information in the context of answering the question and within its limits.’¹⁹

This means that candidates should recall their prior knowledge and apply it effectively when answering the question. This information must be employed systematically to directly serve the topic of the answer. Legal knowledge should be included within the context and limits of the question, without excessive detail that is not relevant to the subject, and without irrelevant digressions.

Second requirement: Adherence to substantive controls

The guidance text states the following:

‘During this stage, you are asked to define the meaning of each term, analyse it in the context of the question, and then link the terms together to uncover the relationship between them.’ This analysis of the terms makes it possible to identify the elements of the question and form an overall idea of the problematic issue raised, representing, as far as possible, a summary of your own thoughts on the matter. The problematic issue does not constitute a posed question, nor a rephrasing of the topic as another question or in another form. Rather, it is an answer to the posed question related to an idea about the topic, which will be explained in the essay’s detailed presentation.

There is never just one general idea for the topic, meaning the essay cannot be a definitive answer.

The general idea that the candidate forms about the topic will guide their thinking and the method of reasoning that they demonstrate in their presentation. Without this general idea, it is not possible to speak of reasoning and proof; therefore, there can be no essay.

From this, it follows that the candidate must observe the following:

First Branch: Controlling terms

The candidate must analyse legal terms in the context of the question.

- Reveal the relationships between the terms and identify the elements of the question.

First Item: Defining the problematic issue (imbroglio).

Based on the elements of the question, form a general idea of the problematic issue raised.

- The formulation of the problematic issue must not simply rephrase the question.

The problematic issue acts as a ‘compass’: it is an idea related to the answer that guides the essay.

¹⁹- See: Guidance document for the national competition to recruit law students/judicial trainees, the practical guide (including model questions and answers from previous courses).
<https://www.esm.dz/concours/guide> (accessed 17/09/2025 at 10:22).

Second item: Defining and clarifying the topic idea

The absence of certainty about a single idea in a legal essay.
Reasoning and proof are primarily based on the general idea.

Second Branch: Practical Models for Exemplary Answers

Before presenting the questions and their model answers, I noted that the guidance document at the beginning of the answers warns of the need to take a methodological approach to writing the essay. It then devotes two points to this. I also identified other methodological aspects in the answers. Before commenting on these, I will first explain the scientific evaluation criteria.

First item: the main structure plan (most common and effective).

From reviewing the answers, it appears that using an outline or section plan (a plan of headings) is the most common and effective way to organise and present the answer in a logical and sequential manner. This is usually preferred to the 'topics/discussion sections' plan, which is stricter in terms of division and methodology.

This preference has several reasons, the most important of which are:

- The ease with which the topic can be divided into clear main headings.
- The flexibility of this approach in covering the different elements of the topic.

Second item: Respect for academic methodology as a key grading standard

The correction criteria indicate that methodology is not just an organisational form, but a fundamental element in determining the final grade.

Therefore, a good answer should be based on:

A) Introduction: This usually includes two important elements:

- A presentation/introductory framing of the topic that places the reader in its general context.
- A clear and precise formulation of the problematic issue, with reference to the sections/headings of the answer.

B) A balanced and coherent body: this should be achieved by:

- Presenting the basic information.
- Relying on arguments and real or analytical evidence.
- Explaining and interpreting, including examples.
- Linking paragraphs to make the answer appear as an integrated system, not merely a series of separate points.

C) A focused conclusion: The answer should include:

- A brief summary of the most important points raised.
- Highlighting a general result or central position on the topic.

Third item: the importance of discussion and expressing an opinion.

The candidate is not expected to merely transmit information, but rather to:

- discuss the arguments presented, and strike a balance between viewpoints.
- Provide a reasonable, objective position.

Practise calm, scientific critique supported by logical justification.

This is what distinguishes a 'general culture essay' from an 'extractive memo/summary'.

The general culture essay relies on analysis, discussion and expressing an opinion, as well as presenting information.

The extractive memo mainly involves extracting and adhering to documents in a neutral manner (i.e. without expressing an opinion).

Third requirement: Standards for commenting on and evaluating the scientific legal essay

The scientific legal essay is considered a fundamental tool in academic research. It demonstrates the researcher's ability to address a legal issue in a rational and methodical manner. As the scientific value of this essay cannot be determined by its size or the number of revisions, it is essential to adopt precise, objective evaluation criteria that allow it to be assessed in a disciplined scientific manner, balancing the

soundness of the methodology, the accuracy of the analysis and the significance of the scientific contribution.

The evaluation standards are as follows:

- Clarity of the legal problematic issue: a precise formulation of a legal question that can be analysed and is neither artificial nor merely descriptive.
- Methodological soundness: the coherence of the plan with the problematic issue through appropriate methods such as analysing texts, comparing, deriving legal reasoning and critique.
- Terminological accuracy: correct and specific use of legal concepts without mixing them up.
- Effective use of sources: reliance on legal texts, judicial precedents/case law and recognised legal scholarship (jurisprudence/teaching), with proper and accurate citation.
- Logical coherence: the connection of ideas, the sequential arrangement of arguments, and the absence of contradictions.
- Added scientific value: the essay should include analysis, critique or synthesis, rather than merely transferring information or providing a summary.
- Language and style quality: formal, clear legal language that is free from filler and grammatical or conceptual errors.

Conclusion:

This study, which addressed the topic of ‘The Legal Essay and the Methodology of Commenting on It: An Analytical Study of the Concept, Steps, and Methodological Controls’, shows that the legal essay is one of the most important scientific tools used by legal researchers to present and analyse various legal issues. It combines legal knowledge with scientific methodology within an integrated framework that is aimed at addressing legal topics in a precise and organised manner.

The study also clarifies that commenting on the legal essay is just as important as writing it because it enables the evaluation of the essay’s methodological structure and the assessment of the soundness of its legal ideas and arguments.

Furthermore, the study demonstrated that the success of a legal essay does not depend solely on the presence of legal information. Rather, it hinges on adhering to the methodological rules that govern all stages of producing the essay, from understanding the topic and analysing its wording to formulating the problematic issue and selecting an appropriate plan. Finally, the introduction, body and conclusion must be written according to a comprehensive scientific approach. Commenting on the legal essay also requires analytical and critical skills to enable the researcher to objectively evaluate the essay’s content and methodological form, and identify its strengths and weaknesses.

The study also reveals that legal methodology is fundamental to ensuring the quality of legal academic work. It helps organise ideas, arrange legal arguments and achieve logical coherence between the essay’s different sections. This, in turn, strengthens the researcher’s ability to address legal issues and reach accurate scientific conclusions.

Therefore, mastering the methodology of writing and commenting on legal essays is scientifically necessary for all students and researchers in legal studies, as it provides an essential foundation for solid legal research and is an effective tool for developing thinking, analytical, and legal reasoning skills.

- A legal essay takes a scientific and methodological approach to addressing and analysing legal problems in accordance with the rules of academic research.
- Preparing a legal essay requires the combination of legal knowledge and adherence to specific methodological controls of legal writing.
- Analysing the essay topic and formulating the problematic issue are among the most important stages for the success of the essay.
- Thorough preparation of the methodological plan helps to ensure the logical sequencing of ideas and the overall coherence of the essay’s structure.
- The introduction, body and conclusion are all integral components of a legal essay.
- Commenting on a legal essay is a scientific method of evaluating the quality of the legal analysis and the extent to which the writer adheres to methodological rules.

- Adherence to principles of objectivity, accuracy and clarity in legal writing enhances the scientific value of the essay.
- Inadequate methodological training is one of the main reasons for shortcomings in the preparation and commenting on of legal essays.
- Legal methodology is an essential tool for developing critical thinking, analytical, and legal reasoning skills in legal researchers.
- Adhering to methodological rules improves the quality of legal research and helps ensure more accurate and objective results.
- The teaching of research methodology and the legal essay should be strengthened within law school curricula from the early years of university education.
- Increase the number of practical courses and training workshops focused on writing and commenting on legal essays.
- Encourage students to practise legal analysis and scientific critique through continuous, applied exercises.
- Create unified methodological guides and publications that explain how to prepare a legal essay and the rules for commenting on it.
- Develop students' and researchers' legal drafting skills through continuous training in academic legal writing.
- Promote a culture of relying on reliable legal sources and references, and of respecting the rules of scientific citation and documentation.
- Encourage researchers to adopt a critical and analytical approach to legal issues, rather than limiting themselves to description and narration.
- Integrate modern digital technologies and e-learning platforms into the teaching of research methodology and legal writing.
- Develop assessment mechanisms for legal essays that consider methodological and substantive aspects together.
- Raise awareness of the importance of legal methodology in producing sound legal research that contributes to the development of legal thought and keeps pace with legislative and judicial developments.

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