

Common Legal Drafting Rules for the Portuguese-speaking countries and regions: possible outcomes

Panel 81: Common legal drafting rules for Portuguese Speaking countries and regions

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Summary

1. The Question
 2. The players involved
 3. Possible outcomes
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The question

The objective of the Common Legal Drafting Rules for the Portuguese-speaking countries and regions project is clear:

The determination of common rules and standards for legal drafting in the Portuguese-speaking legal systems

The objectives are:

- i) To deepen the collective identity of these legal systems by using their common language and common rules for legal drafting;**
 - ii) To improve legal certainty, as their citizens can better understand each other's laws, promoting cross-border investment; and**
 - iii) To ensure the quality of the democratic legislating procedures**
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- **There is a common basis of legal drafting rules present in all the legal systems with a Lusophone basis**
 - **An academic dialogue between researchers and specialists from each system was achieved**
 - **If an agreement on general legal drafting standards applicable to all the Portuguese-speaking countries and regions is achieved – what should be its outcome?**
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The players involved

- **Portuguese speaking Countries and Regions in the project: Angola, Brazil, Cape Verde, Guinea-Bissau, Special Administrative Region of Macao, Mozambique, Portugal, São Tomé and Príncipe and Timor-Leste**
 - **Other Portuguese speaking Regions?**
 - **The Community of Portuguese Language Countries (CPLP)**
 - **Civil society and academic community**
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- **Community of Portuguese Language Countries (CPLP) – main objectives:**
 - **Political and diplomatic cooperation between its member states, in particular to strengthen its presence in the international arena;**
 - **The cooperation in all areas, including education, health, science and technology, defense, agriculture, public administration, communications, justice, public safety, culture, sports and media;**
 - **The materialization of projects for the promotion and dissemination of the Portuguese language.**
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Possible outcomes

- **Purely academical: Publishing a legal drafting manual;**
 - **Soft law approach:**
 - **A legal drafting manual officially adopted by the CPLP / other international organization;**
 - **A Declaration / proclamation by the Portuguese speaking Countries and Regions**
 - **Hard law approach:**
 - **An international convention or**
 - **A legally binding act of the CPLP**
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- **Purely academical: + easily achievable / - limited effect**
 - **Soft law approach: + achievable and effective / - non-binding nature**
 - **Hard law approach: + most effective way to achieve harmonization / - very hard to achieve, sovereignty and legal drafting**
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International examples:

- **OECD/EU SIGMA program: Law Drafting and Regulatory Management in Central and Eastern Europe**
 - **Commonwealth Legislative Drafting Manual: In 1976, recognising that there was a shortage of trained legislative drafters in the Commonwealth, the Commonwealth Secretariat first published a legislative drafting manual aimed at informing those practitioners with little or no previous experience in the skill, and assisting those with some experience who had never considered why drafting needed to be undertaken in a particular way.**
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- **Soft law approach is dominant in the international examples**
 - **Should it be the preferred outcome?**
 - **Which form?**
 - **A mix of soft and hard law approaches is possible?**
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Obrigado!

Thank you very much!

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