Rules for Legislative Drafting in Portuguese-speaking Countries and Regions Research Project

Panel 3101: Better regulation and its importance for citizens and companies in Portuguese-speaking countries and regions
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Summary

1. Introduction: Legislative Drafting
2. Why searching for common standards?
3. Legislative drafting in PT speaking countries and regions
4. Lines of research
5. Conclusion
1. Introduction: Legislative Drafting

Aims to create rules, standards and methods to draft quality legislative instruments

Legistive drafting dimensions

• Normative acts
• “Substantive” rules for legislative drafting
• “Formal” rules for legislative drafting and
• Legislative Impact Assessment
Summary

2. Why searching for common standards?
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✓ Simplifying and improving access to legislation for more than 250 million of Portuguese native speakers
✓ Angola
✓ Brazil
✓ Cape Verde
✓ Guinea – Bissau
✓ Macao Special Administrative Region (PRC)
✓ Mozambique
✓ Portugal
✓ São Tomé and Príncipe
✓ Timor – Leste

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2. Why common standards?

- Making legislation in Portuguese-speaking countries more similar and easier to be understood by everyone

- Reducing red tape costs for businesses in Portuguese-speaking countries and regions

- Common practices and the same legal roots create the perfect ground for common rules and standards
In general, regulations of Portuguese-speaking countries and regions address similar problemas and issues

**Ex1**: How to identify the types of legislation

**Ex2**: How to separate the provisions of a law in different parts

**Ex3**: How to amend and repeal legislation

**Ex4**: Clarity and simplification of legislation
2. Why common standards?

- Regulations or handbooks of Angola, Cape Verde, Macao, Portugal, São Tomé and Princípe and Timor-Leste are very close.

- Common practises in Guinea-Bissau and Mozambique also follow this pattern (although there are no regulations approved or handbooks).
Purpose of the research project: setting common rules and standards for legislative drafting in Portuguese-speaking countries

• The scope includes:
  ✓ Legislative drafting rules
  ✓ Specific issues concerning better regulation and law making

• The scope does not target:
  ✓ Standards and common grammatical rules for Portuguese language
  ✓ Issues regarding the type of legislative acts in different countries
3. Legislative drafting in PT speaking countries and regions
• Angola, Brazil, Cape Verde, São-Tomé and Príncipe and Timor-Leste have published regulations on legislative drafting
  ✓ Brazil and São-Tomé and Príncipe: for acts of parliaments, presidents of the republic and governments
  ✓ Angola, Cape Verde and Timor-Leste: for legislation approved by governments
• Macao: guidelines and handbook on legislative drafting
• Portugal had published regulations in the past; today it has guidelines and a handbook on legislative drafting
• Guinea-Bissau and Mozambique do not have regulations on legislative drafting or handbooks
• Regulation in Brazil has some differences but they do not prejudice efforts to achieve common standards

**Ex1:** There is no “summary”/”summary” of a piece of legislation but an “ementa”, whose purpose is also to briefly identify the object of the legislation

**Ex2:** On what concerns numbering, the division is also in articles but then these are divided in “parágrafos, incisos, alíneas e itens” (not in “números, alíneas e subalíneas”)

**Ex3:** Brazilian regulation accepts the use of the future tense
4. Lines of research
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• Identifying the different legislative drafting rules in Portuguese-speaking countries and regions

• Defining and improving methodologies and working procedures to set common rules and standards for legislative drafting in Portuguese-speaking countries and regions

• Publishing a paper comparing different legislative drafting rules in Portuguese-speaking countries and regions

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4. Lines of research

- Drafting and discussing a project of common rules and standards for legislative drafting in Portuguese-speaking countries and regions with international consultants (face to face, conference calls, e-mailing)
- Holding workshops on legislative drafting
- Managing the contents of the IAL website
- Holding a Legislative Drafting post-graduation
4. Lines of research

- Observatório da Legislação Portuguesa / Portuguese Legislation Observatory
- Institute of Advanced Legal Studies Law Reform Project
- Setting common rules and standards for legislative drafting in Portuguese-speaking countries and regions (binding or non-binding)
- Drawing up a handbook on common rules and standards for legislative drafting in Portuguese-speaking countries and regions

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5. Conclusion

- Simplifying the access to the law for citizens and companies
- Creating legal certainty for citizens and companies based in a broad geographical area (9 different legal orders)
Thank you!

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