

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
RCSL | SDJ Annual meeting | ISCTE – IUL | Lisbon | 12 September 2018



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

Legislative 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?

2. Why common standards?

- ✓ 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

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

2. Why common 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 Príncipe 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

Summary

4. Lines of research

- 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

- 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

- *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

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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