

Legal Writing

A. Writing techniques

1. Have a clear objective

Always keep the objectives in mind when drafting any piece of writing:

- ✓ A memorandum to a client must analyze the issues, report the state of the law and recommend an appropriate course of action.

2. Front-load your document

Put the most important information on top and lead the reader to what is coming as readers will better understand if they have a context.

3. Be concise

Every word you write should contribute to your message. Omit extraneous words, shorten complex sentences, eliminate redundancies and **keep it simple and structured (KISS)**.

- ✓ Simple language (not legalese) and frame the issue
- ✓ Structure your writing:
 - ✓ guide the reader
 - ✓ use transitional phrases ("moreover", "furthermore", "however", "in addition" etc.)
 - ✓ use headings and subheadings that convey information
 - ✓ limit each paragraph to one topic
 - ✓ footnotes? - If something is important enough to be in a footnote, it is important enough to be in the text. Only citations belong in footnotes.

B. Legal Memorandum

The Structure

- ✓ **Facts** / background
- ✓ **Issue** / question / advice required
- ✓ **Short answer** / executive summary
- ✓ **Analysis** / reasoning

The IRAC formula

- ✓ **Issue** spotting
- ✓ **Rule:** What is the law and what elements of the law must be proven in order for the rule to be applied?
- ✓ **Analysis** / reasoning
- ✓ **Conclusion:** Take a position

C. Sample phrases

1. Referring to previous contact

- ✓ With reference to your letter of 1 June ...
- ✓ In response to your query concerning ...
- ✓ Further to our (telephone) conversation of ...
- ✓ Thank you for your email of 5 June.
- ✓ Thank you for instructing us in relation to the above matter.

2. Stating the reason for writing

- ✓ You have requested advice regarding ...
- ✓ I am writing to inform you that ...
- ✓ As a follow-up to our meeting on 1 June, allow me to summarise what we discussed.

3. Frame of advice

- ✓ Based on information provided to us, we understand that ...
- ✓ The advice and statements set forth below are based on the facts you presented to me in our telephone conference of 15 May. This advice should be viewed in light thereof and remains subject to changes based on a further analysis.
- ✓ I will outline the law in Switzerland as it applies to the facts in the current case.

4. Summarising the facts

- ✓ The facts are as follows: ...
- ✓ As I understand it, ...
- ✓ According to the facts as I understand them, you ...

5. Identifying the legal issue / restate the question

- ✓ Your query to me is whether it is possible to ...
- ✓ You requested information from me regarding ...
- ✓ The legal issue is ...

6. Drawing conclusions

- ✓ We therefore believe that ...
- ✓ Weighing the above considerations carefully, I firmly believe that ...
- ✓ There are good arguments that ...
- ✓ In light of the aforesaid, you have several courses of action / alternatives / options open to you.
- ✓ Therefore, we feel that you have solid grounds on which to pursue an action to ...

7. Follow-up

- ✓ At this stage of the matter, it would be helpful if you could give me further documents or information which relate to ...
- ✓ In addition, it would be extremely helpful if you could provide documents on ...
- ✓ I suggest that you contact my secretary in order to schedule an appointment with me at your convenience in order to discuss our future course of action.
- ✓ We would like to discuss with you ... Do you have some time on Tuesday or Wednesday to talk? Please let us know your availability.
- ✓ I just wanted to touch base and confirm that we are moving forward on the issues discussed in the emails below. If there is any assistance I can provide you, please do not hesitate to let me know.

8. Closing, offering further assistance

- ✓ Once I have received the relevant documents from you, I will ...
- ✓ Could you please review our comments and let us know if they are acceptable to you or if you have any questions or comments?
- ✓ I will keep you informed about the progress of the case.
- ✓ Please contact/call me again if I can help in any way.
- ✓ Should you have any further questions, do not hesitate to contact me.
- ✓ I await further instructions at your earliest convenience.
- ✓ I look forward to your reply / to meeting you / to hearing from you.

9. Salutation – Complementary close rule

English reader

<i>Dear Sir / Dear Sir or Madam</i>	<i>Yours faithfully</i>
<i>Dear Mr Smith / Dear Ms Smith</i>	<i>Yours sincerely</i>

Mr / Ms: married or unmarried person;

Mrs: married female (not used anymore)

American reader

<i>Dear Sir, / Dear Sir or Madam, To whom it may concern,</i>	<i>Respectfully yours, (very formal) Yours truly, (less formal)</i>
<i>Dear Mr. Smith, / Dear Ms. Smith,</i>	<i>Sincerely yours,</i>

Different informal phrases

Close a letter to someone you know well as follows:

- *Kind regards / Regards*
- *With best regards / Best regards*
- *With best wishes / Best wishes / Best*

Sources:

- ✓ <http://legalcareers.about.com/od/practicetips/tp/practicetips.htm>
- ✓ www.lawnerds.com/guide/irac.html
- ✓ www.plainlanguagenetwork.org/legal/legalwriting.pdf
- ✓ *International Legal English, Cambridge University Press, 2011*
- ✓ *Legal Correspondence, Oxford University Press, 2006*

Demonstrate your lawbility!