

## Strategic foresight and law drafting in Finland – A short narrative

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### Introduction

Society is in a constant transition and the pace of change seems to accelerate every year. In order for society to know how to regulate in the long term, the foresight of future is essential. Since legislation is society's most central means of directing activities in the desired direction, foresight should also be considered when drafting legislation. In this report, we describe how foresight information is produced in Finland, how foresight information can be utilised in law drafting, and finally we consider how the usability of foresight information can be increased in law drafting.

### What is strategic foresight in Finland?

From an international comparison, Finland already has an advanced national foresight system and can be regarded as a pioneer in future-regarding policymaking. Finland has been developing its foresight work for 30 years. The Committee for the Future in the Parliament was established in 1993 and the first Report on the Future was submitted that same year. Geographical (e.g. cold winters) and geopolitical location have led to the fact that Finland has become accustomed to preparing for “everything possible and even impossible”.

For example, *The Security Strategy for Society* is a government resolution that harmonises the set of national principles regarding preparedness and guides the preparedness actions taken by the

administrative branches<sup>1</sup>. In the first section of the Strategy, a cooperation model for comprehensive security is presented. The model provides the basis for preparedness and taking necessary actions in the event of different disruptions. The second section of the Strategy provides the preparedness guidelines for the administrative branches. The Security Strategy for Society was drawn up through broad-based cooperation, taking into account the viewpoints of all relevant actors. Since comprehensive security is built in cooperation it involves the authorities, the private sector, NGOs and communities, and citizens.

In Finland, foresight is divided into two types of foresight: basic foresight and strategic foresight. Basic foresight information is produced by many different actors in Finland. Strategic foresight refers to the choices made by political actors by utilising foresight information about which areas to focus on in strategic planning, decision-making and preparedness.

It is difficult to define the actors of the Finnish foresight system. There are many operators of foresight, such as universities, companies, institutions, ministries and municipalities. The task of the Prime Minister's Office is to try to coordinate activities so that forecasting information is widely available and there are proper conditions for decision-making.

In Finland, foresight can be studied in many places (e.g. universities, universities of applied sciences). Strong foresight education together with a strong foresight culture guarantee that foresight skills are at a high level in Finland. On the other hand, the human resources reserved for foresight in ministries are scarce. With more systematic foresight management, it would be possible to get better effectiveness for foresight work.

Finland is continuously developing the systematic use of foresight activities and work on the future in its national strategic preparation. In accordance with the government program, the government aims to use forecasting and research data to support strategic decision-making. Even though the systems for foresight are well developed, the culture for *taking account* foresight findings has remained rather weak.

Foresight work is carried out in all ministries and the ministries are involved in the ministries' *foresight working group*, which coordinates *the Government's joint foresight work*. Foresight working group acts as a mediator of forecasting information and a forum for communication in the Government level and works as a cooperation network of ministries in the preparation of the government's future report. The representatives of the ministries involve experts from their own administration and networks.

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<sup>1</sup> See more: [https://turvallisuuskomitea.fi/wp-content/uploads/2018/04/YTS\\_2017\\_english.pdf](https://turvallisuuskomitea.fi/wp-content/uploads/2018/04/YTS_2017_english.pdf).

Furthermore, the *Government Foresight Group* is an expert group that supports the Government's foresight activities and the work of *the National Foresight Network*. Its members are experts in foresight and futures work and represent both the producers and users of foresight data. The main objective of the expert group is to develop and strengthen the links between foresight activities and decision-making processes.

The Government Foresight Group serves as an advisory body in the preparation of the Government Report on the Future and the ministries' futures reviews. The Government Foresight Group also supports the national foresight cooperation and promotes development and public awareness of foresight work at the national level.

The National Foresight Network brings together the Finnish foresight data producers. The network is coordinated by the Prime Minister's Office and the Finnish Innovation Fund Sitra. It functions as a discussion and coordination forum for foresight operators and organises various events. Foresight events are open meetings organised by the National Foresight Network on a regular basis. The topics and content of these events vary and they feature foresight presentations, training events and networking opportunities. They are open to anyone interested in the foresight and futures research.

One of the key actors in foresight in Finland is the Committee for the Future in the Finnish parliament. The Committee's mission is to generate dialogue with the Government and the parliament on major future problems and opportunities. At least once during its term of the Government period (4 years), the government gives a report (Government's Future Report) on long-term future prospects and the government's targets which is submitted from the Prime Minister's Office to the Parliament. The main task of the Committee for the Future is then to prepare the Parliament's response (Parliament's Future Report) to the Government's Report on the Future. By this way the Finnish Government and Parliament can recognize important political themes at such an early stage that different alternatives and policy lines are still completely open and under development.

The main foresight documents are produced by the Government at three levels: 1) The Government Report on the Future organized by the Prime Minister's office, 2) Futures review of the ministries by the ministries, and 3) Opportunities for Finland: Messages from the permanent Secretaries to support the change of government.

*The Government Report on the Future* forms the basis for dialogue for the future in the Government and Parliament and aims to identify issues that will be important for decision-making and require special

attention in the future. The Government Report on the Future is used in building the Finland of the next generations and in strengthening preparedness for the future of Finland.

The ministries draw up *futures reviews* once per electoral term. Public officials prepare the reviews under the leadership of the ministries' permanent secretaries. The aim is to generate public debate and provide information in support of government formation talks. The reviews assess situations in Finnish society and examine issues involving political decision-making.

The latest futures review from 2022 is a shared publication of all 12 ministries. The ministries are presented in separate sections, which makes it easier for the reader to identify to which branch the discussed topics belong. At the beginning of the review, there is a comprehensive description of the operating environment, drawn up jointly by the ministries, that is based on the Government Report of the Future.

“Opportunities for Finland” is *a joint outlook of the Permanent Secretaries of the ministries* on the key questions for *the next two government terms*. The document identifies the key challenges and reflects on possible directions for solutions. In the Permanent Secretaries' view, the governments in the next two parliamentary terms will face the following five interlinked challenges that will require decisions: (1) rapid progress must be made on the green transition, (2) general government finances must be balanced considerably, and (3) both of these must be achieved in a fair and egalitarian manner, (4) the conditions for economic growth must be strengthened, and (5) further measures must be taken to improve Finland's security and resilience to crisis.

### **Long term planning in law drafting**

Legislation is the government's most central means to change social functions in the desired direction. Thus, law drafting should be of high quality and decisions based on a proper evidence-base. The legislative process is illustrated in Figure 1 as a “policy cycle”.

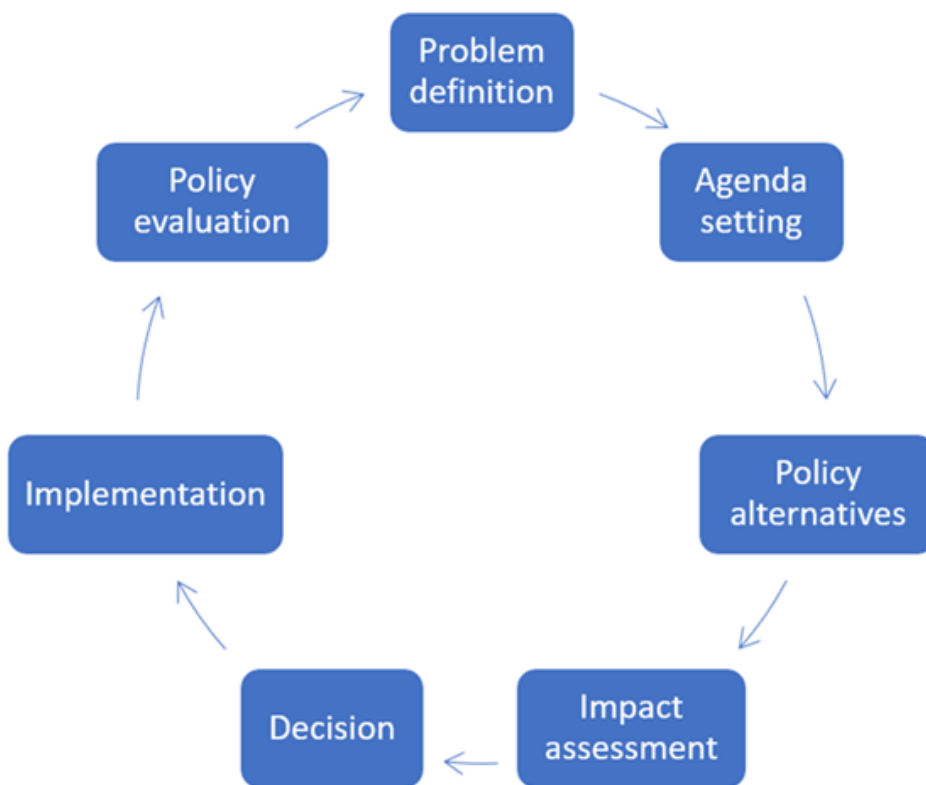


Figure 1. A basic policy cycle.

The process begins with a problem definition, where a certain societal problem is defined. The societal problem can be related to, for example, crime prevention, unemployment or securing social and health care services. After the problem has been identified, an agenda must be set to achieve certain societal goals (e.g. to create 30 000 new jobs if the problem is related to unemployment). To achieve the goals efficiently, it is essential to identify different regulatory alternatives and assess their impacts. This *ex ante impact assessment* should be based on a proper evidence-base and be free of excessive political guidance. The impact assessment is followed by political decision-making, which should result in the choice of the best possible regulatory alternative. When the chosen legislation has been implemented and has been in force for a certain period, the impacts should be assessed *ex post* (policy evaluation) to detect the actual effects of the chosen legislation on achieving the set societal goals.

This “basic” policy cycle does not say much about considering future planning in legislative processes. However, the future perspective should always be considered in the different steps of the cycle. Future planning can be considered for example by recognising the overall picture instead of a single societal problem. For example, one single societal problem could be solved, for instance, by increasing public

expenditures, but in a long run this might have negative impacts on government debt and the balance of public finance. Furthermore, the consideration of the overall picture requires also close cooperation between ministries. One single ministry cannot solve complex societal problems (etc. ageing, government debt, carbon neutrality) on their own, as these problems extend to the domain of several ministries.

The long run effects should be considered in both, ex ante and ex post impacts assessments, by identifying the possible side effects as comprehensively as possible. In the previous example, the side effects were related to the increase in government debt and the imbalance of the public finance. For ex ante assessments, it could be also relevant to use different techniques to take into account long run effects and possibilities. In this case, the benefits of dynamic efficiency from the use of the best possible technology could be estimated and flexible standards instead of strict rules considered. The ever-changing conditions may require flexible regulation, so that the regulation does not fall behind, for example, in the face of rapid technological development.

In law drafting and decision-making, it is also necessary to utilize the expertise of the operators specialized in future planning. These operators can be, not only individual experts, but also official instances. As it was mentioned in the previous section, in Finland the Parliament Committed for the Future acts as a parliamentary body for future planning. It should be considered whether the other parliamentary committees could request statements from the Committee for the Future on the legislative projects that fall under its field. It could also be beneficial to establish a separate ombudsman whose task would be to bring forward the perspective of future generations both in the law drafting and in the decision-making phases. (See also Airos et al. 2022)

To understand the development targets for foresight-related law drafting, it is essential to begin with by recognising the problem points in the “regular law drafting”. If the quality of law drafting is not at a sufficient level for regular law drafting, it is hard to imagine that it would be at the sufficient level for future planning-related drafting either. Typical problem points are related to impact assessments, both ex ante and ex post. Ex post evaluations are conducted rarely and unsystematically and for ex ante evaluations, the impacts of different alternatives are not considered properly. The shortcomings in impact assessments can be due to, among other things, lack of resources, expertise, and relevant research data. For example, many law drafters in Finland have a legal education, which does not provide capabilities on advanced evaluations.

Furthermore, even properly accomplished evaluations might not necessarily have a great position in decision-making if the political guidance is mistimed. The final decision on the regulatory alternative to be chosen should always be made *after* the proper impact assessments, not in advance. In the case of political guidance, the importance of the government program must also be acknowledged. In Finland, the government program is the most important document guiding the practical law drafting. Therefore, foresight and future generations must be considered in the government program after an extensive consultation with experts from various fields. The political guidance and decision-making should also be long-term, in which case the politicians dare to make tough decisions with a perspective longer than one election term.

### **How to use information from long term planning more efficiently?**

It is important to ensure that foresight information can be effectively used in law drafting. In Finland, the utilisation of (foresight) information can be improved in many ways in legislative process. *First*, it must be ensured that political guidance takes place in a timely manner. If the details of future legislation are decided too early – for example in the government program – there is not necessarily an incentive to produce relevant information in the drafting, if the information is not actually used in decision-making. It would be important that information could be produced in the preliminary preparation phase of the legislative process before the key political decisions are made.

*Secondly*, it is essential that the production of foresight information by different operators is coordinated and it is ensured that the information is available from one operator. In Finland, the Prime Minister's Office gathers forecasting information and coordinates the production of forecasting information. The Prime Minister's Office is a natural choice, because the political decision-making process and the legislative process, which occur at the same time, can be better coordinated.

*Thirdly*, it is important that the law drafting does not focus only on solving the problem at hand, but also takes into account how the regulated phenomenon will develop in the future. In this case, the utilisation of foresight information becomes a more natural part of drafting when the future conditions is taken more carefully into account in the legislative process.

*Fourth*, a dialogue between the government and the parliament must be strengthened, so that the opposition parties and members of parliament can also participate in discussing the legislation. In Finland, the Committee for the Future operates under the parliament. The Committee can order reports on phenomena that will be of great importance in the future and to give opinions on the government's

proposals. Through the work of the futures committee, the parliament is better able to consider foresight and foresight information.

*Fifth*, the increasing utilisation of foresight information in the law drafting process increases the role of experts as producers of information. Good law drafting process also includes the engagement of stakeholders and citizens. It is essential to ensure their participation in law drafting in the future for example to enhance the legitimacy of the law.

*Sixth*, the role of impact assessment becomes even more essential in situations where consideration of the future is emphasized. Foresight information about the development of the phenomenon in society should be taken into account in the ex ante impact assessment. Correspondingly, with the help of ex post impact assessment and monitoring, it is possible to detect if the effects of the legislation deviate from the intended effects. By using ex post evaluation information, it is possible to react to detected problems if necessary, for example by instructing the authorities or changing the legislation.

*Seventh*, the law drafting culture should be developed in a more proactive direction. By using foresight information, legislation could be developed before societal problems arise. Today, law drafting is too much about reacting to perceived problems. In addition, the general development of the quality of law drafting will also improve the future planning aspect in the legislative process.

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