



EUROPEAN COMMISSION

LEGAL SERVICE
Legal Revisers Group

**SUMMARY REPORT ON THE SEMINAR:
MAKE IT SIMPLE AND UNDERSTANDABLE – FINNISH VIEWS ON
THE QUALITY OF LAW DRAFTING
Brussels, 26 October 2006**

Mr Karl-Johan Lönnroth, Director General of the Commission Translation DG, explained the role of translation in the Commission's decision-making process and stressed the contribution that translators can make to improving drafting quality.

Mr Pekka Nurmi, Director General and Head of the Law Drafting Department in the Ministry of Justice, began by sketching the influence of history on the role of law in Finland. Finland passed from Swedish rule to a period of autonomy as part of the Russian empire before becoming independent in 1917. The background it shares with other Nordic countries facilitates their close cooperation in modern times.

Following ratification in 1990 of the European Convention on Human Rights, a new Constitution was adopted in 2000. The principle of respect for the law is enshrined in Article 2. The Constitutional Law Committee of the Parliament scrutinises laws for compatibility with the Constitution. The courts cannot declare provisions of laws unconstitutional but if they find an evident conflict with the Constitution they must give primacy to the latter.

Historically, law is seen as a good solution to problems and because of the deep-seated tradition of obedience to the law, implementation raises few difficulties. The Nordic countries share a culture of simplicity and prefer actions to declarations. Citizens feel a sense of equality and dislike arrogance. Interest groups such as labour organisations customarily play a strong role in the law-making process.

The basic requirements for good law-making were therefore in place but a more systematic and political approach was needed. Finland has now initiated a concerted move towards a good legislative culture. The independence of the various government departments on legislative policy is being curtailed in favour of a centralised, coordinated approach. Greater prominence will, in particular, be given to consultation of business organisations for example and conduct of impact assessments. The role of the Ministry of Justice is being enhanced. It provides training, guidance and other assistance to the drafters in the ministries and check the drafts prepared by them.

Finland is closely involved with other Member States and the EU institutions in promoting better regulation in the EU, taking part in the Six Presidencies initiative and the group of directors of better regulation. It is active at international level too.

Finland has two official languages and all legislation must be published in both. Most legislation is drafted in Finnish and then translated into Swedish. Sometimes the translation process serves to highlight problems in the original text.

Ms Kirsi Pimiä, Counsel to the Grand Committee and the Foreign Affairs Committee of the Parliament explained the system for parliamentary scrutiny of legislation. Under the Constitution, sovereign power is vested in the people, who are represented by the Parliament. Scrutiny of EU measures is designed to ensure that the government does not commit itself to EU measures before Parliament has a chance to debate them. Government is accountable to Parliament and must submit all relevant

proposals to it without delay. Parliament then gives its opinion quickly so the Finnish government representatives can reflect it at EU level.

In Parliament, EU matters are handled by the Grand Committee, which acts on behalf of the plenary, and 14 sectoral committees. The Government's communication to the Parliament must contain all relevant information, covering in particular the legal basis, subsidiarity, impact assessments and so on.

Drafts are first the subject of a preliminary debate in the plenary before passing to the special Committee which examines them in detail and hears experts. The Committee does not have a rapporteur; its reports are drafted by a parliamentary secretary. The composition of the Committee reflects the make-up of Parliament. Its proceedings are generally not public but the record and the documents become public immediately after each Committee meeting and are published on the Internet.

Freedom of information is a long established principle in Finland. All documents in the possession of a public body must be accessible to the public unless there are imperative reasons for granting them confidential treatment, generally for a limited period.

Ms Aino Piehl, Senior researcher at the Research Institute for the Languages of Finland, explained that the institute was established to advise on standards of language use. It draws up rules and disseminates guidance on spelling and grammar.

Translation has strongly influenced Finnish legal language, partly because Swedish was for centuries the only official language with only some laws being translated into Finnish. In 1863 the Russian Emperor decreed that Finnish should also be an official language. Emphasis is laid on making legal language understandable. Even if citizens do not actually read the official journal, they will be subjected to the formulations used in legal texts by virtue of forms they have to fill in, decisions addressed to them by the administration and so on.

A committee was charged in 1979 with examining use of language by government, leading to a requirement, now set out in the Administrative Procedure Act, for authorities to use clear and comprehensible language. Studies into barriers to comprehensibility such as inaccessible terminology and complex sentence structures with numerous clauses have spurred determined action to remove them.

The Parliamentary Ombudsman has warned of the harmful influence of EU legislation on the quality of Finnish laws. The average length of sentences in the Finnish version of EU directives is clearly greater than in Finnish laws; too many nouns and participial modifiers are used; sentences are dense; the terminology used is unfamiliar, with many words employed in a sense different from their ordinary meaning.

At EU level the problem has been recognised and mechanisms to tackle it established by the Interinstitutional Agreement on drafting quality and the Joint Practical Guide. Progress is slow, however, perhaps because, just as an individual writer becomes blind to obscurity in his or her text, groups of writers can develop collective blindness. Help may, as in Finland, come from translators, who are the first true readers of EU texts at a time when drafts can still be improved. There is not one simple solution. A systematic approach is needed to raise awareness, place language quality high on the checklist for drafters, train staff, introduce testing by outside readers and build more time into the drafting process.

Bevis Clarke-Smith, Head of the Commission Legal Revisers Group, thanked the speakers for giving participants so much food for thought.

For more information on the Legal Revisers' work contact: Juristes-Reviseurs@ec.europa.eu