Chapter 8

Finland Makes its Statutes Intelligible: Good Intentions and Practicalities[1]

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Since the 1970s, Finland has been seeking to clarify the language of statutes with a view to making them more intelligible to the public. This has been a common objective for statutes written in both of the national languages: Finnish and Swedish. Previous to that, clarity was understood in terms of internal and mutual consistency of statutes. The primary aim at that time was to establish the expressions and lexicon of Finnish statute language, and also to ensure that statutes were drafted in grammatically correct and idiomatic Finnish language.

Today, modern legislation is expected to evolve in many directions, and clarity of language is an objective that must vie with other demands for the drafter's attention: the financial and administrative impacts of a statute have to be assessed; alternative forms of guidance must be considered; and the consistency of a proposed statute with the Finnish Constitution, Community Law and international treaties must all be evaluated. These considerations must also be stated explicitly, while the extent to which a statute is intelligible continues to depend largely on the interest and abilities of the drafter.

From 'translatorese' to the language of Finnish statutes

As part of the Kingdom of Sweden from the Middle Ages until 1809, Finland was subject to Swedish laws. As a result, translators were responsible for formulating the language of statutes written in Finnish for much of its history, and this has had a significant impact on the evolution of the language. While some of the older laws were translated into Finnish, none of these translations were ever printed. Royal Ordinances, on the other hand, were translated and printed in the 16th and 17th centuries. These translations adhered closely to the structure of the Swedish source text, and their meaning could be quite obscure in Finnish, as equivalents had to be found for many concepts and this often meant simply using the Swedish, Latin or French expressions in the Finnish text; or resorting to word-for-word loan translations of Swedish expressions. It was not until 1735 that the first official position for a

1 The author wishes to thank Daryl Taylor for the translation of this chapter which was originally written in Finnish.

Finnish language translator was established in the Swedish civil service (see Pajula 1960, 71, 82, 87).

The first printed law in the Finnish language was a translation of the Swedish law of 1734 published in 1759. This law was a major reform and its wording in Swedish had been drafted carefully with a view to concise expression. The high standard of the source text was also apparent in the translation, even though this largely continued to adhere closely to the structure of the original. This law also remained in force for a long time, as Swedish laws continued to be applied even after Russia had conquered Finland in 1809. Finland then became an autonomous grand duchy directly subordinate to the Tsar, while its internal administration and judiciary continued to work in the Swedish language. The comprehensive process of legislative reform continued slowly, and so new translations of the 1734 law were prepared again in the 1860s and 1890s.

A major social shift occurred in Finland after the middle of the 19th century. As elsewhere in Europe, the idea of a nation state was beginning to gain ground in Finland, and nationalist officials in the universities and administration took the view that society should function in the Finnish language spoken by the majority of the population. Many of these leading figures in the Finnish national consciousness movement were originally Swedish speaking, but had changed their language in pursuit of their ideals. These efforts began to hone and sharpen the Finnish language to meet the needs of a modernising society in a wide range of fields. The leading figures in this process also sought to improve the language of statutes. For example Elias Lönnrot and August Ahlqvist, both early professors of the Finnish language, were involved in work to translate laws into Finnish and to expand the legal lexicon (Pajula 1960, 184-185).

In 1863, on the recommendation of nationalist Finns, Tsar Alexander II issued a decree seeking to grant the Finnish language the status of a language of public administration within 20 years; meaning that Finnish-speaking Finns would have to be able to transact business with public authorities in their native language by no later than 1884. This meant that the language of statutes gradually gained support from other uses of the Finnish language in public administration. It was not until 1902, however, that a Decree of the Tsar confirmed the status of the Finnish language as fully equal to Swedish in public administration (Pajula 1960, 222).

Throughout the 19th century, statutes were usually drafted in Swedish, even though Finnish-speaking civil servants were already engaged in such work in the closing years of this century. The statutes were also translated into Finnish and published. Finnish became the language of drafting when Finland elected its first unicameral Parliament in 1907 and more than 90 per cent of the new Members of Parliament were Finnish speaking. It was at this point that statutes began to be translated from Finnish into Swedish.

In 1917 Finland became an independent State with two statutory national languages: Finnish and Swedish. With 89 per cent of the population the Finnish speakers were in a large majority (*Finlandssvenskarna 2005 – en statistisk rapport* 2007, 7). Although Finnish had already become established as a language of legislative drafting, many civil servants were still either native speakers of Swedish or had mainly studied and worked in the Swedish language. This meant that the

impact of Swedish on the language of statutes and administration in particular was substantial and many structures and expressions were alien to the Finnish language. The language of statutes was specifically criticised for these failings in sources such as *Lakimies* – the Finnish language journal founded in 1903 by the Association of Finnish Lawyers, one aim of which was to develop Finnish as a language of law. In 1929, for example, suspicions were expressed in this journal that 'the people who write and amend laws nowadays are no more familiar with the laws of language than with those of society' (Ahava 1929, 219–228).

As the statutes suffered from shortcomings of both language and legislative drafting, the idea of establishing a body to inspect them was entertained, and a special law inspection division was set up at the Ministry of Justice in 1936. This division was responsible for inspecting legislative drafting and for taking care of the linguistic quality of statutes, which meant ensuring that completed statutory proposals conformed to established legal linguistic usage and were precise and consistent (Tyynilä 1984, 258-259). The aim of law inspection was thus to consolidate the forms and expressions of legal language. Finland's new standard language was still seeking a uniform, established style in many other specialised fields where it likewise continued to suffer from lexical deficiencies. Philologists also studied the evolution of language from this point of view. No consideration was given, on the other hand, to the question of whether the statutes and the language of public administration were intelligible from the point of view of safeguarding the rights of ordinary people.

General intelligibility was nevertheless a fundamental principle of lexical development. This was also the justification for seeking to avoid the use of Greek and Latin loan words or of loans from contemporary languages in the statutes. Instead of these, Finnish language elements were recombined to coin new words or new meanings were given to existing expressions. The range of special legal and administrative concepts was still quite narrow and the lexicon did not differ substantially from ordinary language, as too little time had elapsed to allow any domain of special terminology to evolve. The rule of law also generally applied to familiar and concrete matters and no specialist expertise was usually necessary for understanding the statutes.

Seeking general intelligibility instead of conformity of expression

It was only in the 1970s that any real call was heard for the language of statutes to be intelligible to the public at large, although the idea had surfaced sporadically at earlier stages in the history of Finnish legal language. When a special legal drafting body was first proposed in 1877, it was considered important for such a body to be able to ensure that the law would be clear and intelligible to the people. The proposal was not supported by the national consciousness movement at that time, however, as it did not allow for the fact that readily intelligible laws drafted in Swedish would in any case remain incomprehensible to the majority of Finns on the other side of the language barrier (Tyynilä 1984, 72-79).

The call for intelligibility was heard again in the 1950s when a committee was appointed in 1953 to consider reorganising the process of drafting legislation. The report of this committee stressed that laws had to be readily intelligible to the general public (Tyynilä 1984, 309-310). The same aspiration was repeated in the justifications for the proposal given in the government bill when the reforms were enacted in 1959. The final reorganisation saw the establishment of the Law Drafting Department and associated Bureau of Legislative Inspection at the Ministry of Justice. However, the terms of reference formulated for these units in 1960 no longer referred in any way to the intelligibility of laws; and instead the goal of legislative inspection was to produce statutory proposals drafted in legal language that was free from error, precise and consistent (Tyynilä 1984, 319-336).

Only over a decade later was the time ripe for the notion of intelligibility as such. A universal interest in achieving democracy and social equality also focused attention on the intelligibility of language used by public authorities, which was understood to derive from the language of statutes. And this language had to be intelligible so that members of the public could find out about their rights and ensure that those rights were respected. Beginning in the late 1960s these ideas also encouraged the Finns to take an interest in ensuring that ordinary people could understand the language of statutes and public administration.

In the 1970s, the Law Drafting Department of the Ministry of Justice issued instructions for writing intelligible statutes and official communications. Courses on this subject involving language specialists were also arranged for officials. It was also at this time that the first guidebooks were published specifically for civil servants, focusing on linguistic features that hamper understanding, such as abstract expressions, cumbersome sentence structures and a lexicon that is alien to the public at large. The earliest efforts were made by the Law Drafting Department of the Ministry of Justice, when it published instructions for officials drafting statutory proposals and other civil servants called *Ymmärrettävää virkakieltä* [*Intelligible Administrative Language*] in 1974 (see Rontu 1974). A second impression of these instructions was soon prepared, and in 1977 they were published again in an enlarged edition (Rontu 1977).

The idea of clarifying official language was thus greeted with enthusiasm, and in 1979 the government appointed a Committee on Administrative Language to consider what should be done to achieve this objective. This committee included representatives of public authorities, including those charged with the task of drafting legislation, together with linguists, plain language experts and specialists in communications and public relations. The committee completed its report, *Kieli ja virkakoneisto* [the *Language and the Machinery of Administration*] in 1981. This report analysed the various types of official language and the reasons for their obscurity. The committee proposed several measures to improve the situation, many of which were subsequently implemented. Indeed these proposals may be considered the basis of procedures employed even nowadays with a view to clarifying the language used by public authorities.

The decision on administrative language and its consequences

One of the most important proposals made by the committee was that the Council of State should issue a decision on measures to improve the use of language by public authorities. The *Valtioneuvoston päätös toimenpiteistä valtion viranomaisten kielenkäytön parantamiseks* [*Decision on Administrative Language*] took effect in the following year (1982), and required central government agencies to ensure the intelligibility of documents issued to private individuals. The decision only applied to central government agencies; courts of law were to attend to their own language practices, while the use of language by local government was the responsibility of local councils. The decision was repealed in 2000, but a corresponding duty was prescribed in the 2003 *Hallintolaki* [the *Administration Act*],[2] imposing a general requirement of good language usage on all public authorities:[3] 'Public authorities shall use appropriate, clear and intelligible language' (Ibid., paragraph 1 section 9).

The *Decision on Administrative Language* also included some concrete directions on language use. It discouraged the use of expressions that were not widely known or were not clear in context. Authors were urged to explain the concepts that they employed. Public authorities were also required to report to the Ministry of Finance, and with respect to drafting of statutes also to the Ministry of Justice, on the steps that they had taken to implement the decision. Training of officials responsible for drafting statutory proposals had to pay greater attention to skills in language use. The decision appointed the Research Institute for the Languages of Finland to serve as a specialist in clear language use, assisting public authorities in resolving problems in this field.

After the decision, government agencies set about organising staff training courses in clear and intelligible language use. Courses were also arranged for the officials responsible for drafting proposed statutes, providing an appreciation of the factors that influence intelligibility. The lecturers retained for these courses were researchers at the Research Institute for the Languages of Finland, which received an increased budget allocation enabling it to establish positions in the 1980s and 1990s for four researchers specialised in clarifying official language. A special training unit was set up at the Institute, the clients of which were mainly central and local government agencies. The Research Institute also prepared a guidebook promoting clear official language in 1980 and a new guidebook in 1992. Articles on intelligible official language began to be published in a 'good official language' column of the *Virallinen lehti / Officiella tidningen* [Finnish *Official Gazette*]. The column has continued to this day.

Following the report of the Committee on Administrative Language the Ministry of Justice prepared a new *Lainlaatijan opas* [the *Legal Drafter's Manual*], published in 1996. This publication discusses some of the features that influence

2 Available at <http://www.finlex.fi/en/laki/kaannokset/1982/en19820598.pdf>.

3 The *Administration Act* does not apply to courts of law, police investigations or central authorities responsible for supervising the legality of official actions, even in their dealings with the public. This hardly means, however, that these authorities would not be expected to follow the principles of good governance.

the intelligibility of a text, such as aspect, information content, sentence structure and choice of terminology. It also points out that deliberate use of unclear wording does not constitute appropriate drafting. The *Legal Drafter's Manual* provides many instructions on how to formulate a text more intelligibly, and these instructions are illustrated with examples. It also states the aim of gradually removing from the statutes expressions that are archaic and alien to ordinary language, and replacing them with more familiar terms. At several points it refers to the progress that can be made simply by observing the *rule of three*: a section of a statute should include no more than three paragraphs; a paragraph should comprise no more than three sentences; and a sentence should have no more than three clauses (Ibid., 121-138). The Manual is currently being revised.

The committee report stressed the importance of training university students in writing, particularly in the fields of law, social sciences and economics. Law students currently take compulsory courses in Finnish and communications, and a course in the language of statutes enabling the student to learn about such matters as the features that promote or impair the intelligibility of a text. The report also focused on the importance of in-service training for civil servants. For many years civil servants gained their introduction to legislative drafting on courses at the government training centre. These courses also included a module on clarity and intelligibility of the language of statutes, which was taught by language specialists. The officials who draft statutory proposals are still trained in this way, and government departments have also continually retained language specialists to teach writing courses for officials engaged in preparing statutory proposals in order to maintain the high profile of intelligibility.

The Decision on Administrative Language also sought to improve the quality of statutes and official communications in the Swedish language, and to this end a 1988 government resolution established the Swedish Language Board at the Council of State to promote the clarity and intelligibility of legal and administrative Swedish used in Finland. This Board also publishes manuals and guidelines. The first manual, *Svenskt lagspråk i Finland* [Swedish legal language in Finland], was published in 1986 even before the Board had been appointed, and several revised impressions of this work have subsequently appeared. The Board also issues recommendations on questions of language and arranges training in association with the Research Institute for the Languages of Finland. By contrast no official body has been established to promote the intelligibility of statutory proposals and official communications in Finnish.

The Decision on Administrative Language and the evolution of the language of statutes

The *Decision on Administrative Language* also attracted considerable interest among philologists. This led to several students' theses investigating the impacts of the *Decision on Administrative Language* on statutes which were prepared at universities in the 1980s and 1990s. These studies focused on the sentence structures used in statutes, which the Committee on Administrative Language had identified as

the main reason for obscurity in texts. For example, Päivi Naskali (1992) and Asta Virtaniemi (1992) compared statutes from the late 1980s to older statutes and to studies of them. The investigations specifically reviewed features of sentence structure that were considered to reveal something about the clarity and intelligibility of a text. These features were the length of a sentence and clause in words, the number of clauses in a sentence, the number of sub-clauses and their status in the sentence, and the number of nominalisations in a sentence such as clause equivalents, participle modifiers and other expressions that are used to eliminate sub-clauses (see Table 8.1 for examples of nominalisations).

Table 8.1 A sentence of statute language containing several nominalisations (Directive 20/2002/EC, article 5)

Radiotaajuuksien käyttöä **koskevien** oikeuksien jakamismenettelyn on oltava avointa, selkeää ja syrjimätöntä	
sanotun kuitenkaan *rajoittamatta* niitä erityisperusteita tai -menettelyjä,	Without prejudice to specific criteria and procedures
	adopted by Member States
joita jäsenvaltiot ovat omaksuneet	
	to grant rights of use of radio frequencies
radiotaajuuksien käyttöä **koskevien** oikeuksien *myöntämiseksi*	
	to providers of radio or television broadcast content services
radio- tai televisio-ohjelmien sisältöpalvelujen tarjoajille	
yleistä etua **koskevien** tavoitteiden *saavuttamiseksi* yhteisön oikeuden mukaisesti.	with a view to pursuing general interest objectives in conformity with Community law,
	such rights of use shall be granted through open, transparent and non-discriminatory procedures.

Table 8.1 compares the same sentence in the English and Finnish versions of *Directive 20/2002/EC of the European Parliament and of the Council on the authorisation of electronic communications networks and services*,[4] juxtaposing equivalent clauses and expressions aside from the main clauses. The main clause comes at the start of the Finnish version and at the end of the English version, and is

4 English version available at <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0020:EN:HTML; Finnish version available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0020:FI:HTML>.

shown with a shaded background. The participle modifiers are marked in boldface and other nominalisations are italicised in the Finnish text. (NB! The English version also employs many structures other than clauses.) The Finnish sentence has 40 words and two clauses with three participle modifiers and three other nominalisations. The English sentence has 54 words in a single clause.

The studies showed that changes had occurred with respect to the features identified by the Committee on Administrative Language. In particular, it was noted that sentences had shortened and included fewer clauses than in older statutes. This progress seems to have continued into the new millennium, as the length of sentences in terms of words and clauses is now also clearly shorter than in statutes dating from the late 1980s (see Table 8.2). This is evident from my study of statutes from 2002 and 2003 (Piehl 2006, 187). Sentences in Finnish can seem surprisingly short in terms of the number of words, but this is simply because the language has no articles and few prepositions, with the corresponding linguistic functions expressed instead using case endings on the words. As the example in Table 8.2 shows, the actual words are fairly long.

Table 8.2 Sentence length and number of clauses in Finnish legislation

	Words/ sentence	*Clauses/ sentence*	*Words/ clause*
Finnish legislation			
1960s			
Mäkitalo (1968)	23.1	2.3	-
Niemikorpi (1991)	22.4	2.4	9.6
1970s			
Language and the Machinery of Administration (1981)	21.0	2.3	9.2
1980s			
Naskali (1992)	18.9	2.1	9.1
Virtaniemi (1992)	19.6	2.0	10.0
2000s			
Piehl (2006)	14.9	1.5	10.1

These findings should nevertheless not be understood to mean that the statutes have evolved in an exclusively favourable direction, even when understood in purely structural terms. The studies indicate that the average number of words in a clause has increased, even as the number of words in a sentence has fallen. This is probably because various nominalisations such as clause equivalents and participle modifiers have been employed to eliminate the sub-clauses that were previously used and express the same content in the main clause. These devices tend to make clauses and sentences more complex and hamper intelligibility. For example, anything expressed using a participle modifier can nearly always also be said with a relative clause. The

findings of Naskali (1992), Virtaniemi (1992) and Piehl (2006) indicate that while the use of relative sub-clauses has been decreasing, the use of participle modifiers in statutes has risen considerably. This development continued unchecked even after the *Decision on Administrative Language*, and despite the efforts made through guidelines and training to reduce the use of participle modifiers (see Table 8.3). Even so, statutes in the new millennium have also increasingly employed relative sub-clauses.

Table 8.3 Percentage of clauses with participle modifiers and relative pronouns in Finnish legislation

	Percentage of clauses with participle modifiers	Percentage of clauses with relative pronouns
1920s Naskali (1992)	32.6	42.9
1980s Virtaniemi (1992)	64.8	16.7
2000s Piehl (2006)	99.3	18.5

European Union membership revives translatorese in legislation

Finland joined the European Union in 1995, thereby returning to a state of affairs in which translated texts are an important factor in Finnish legislation. European Union Directives have to be implemented through Finnish legislation, and the implementing statutes are influenced by the Finnish language versions of the Directives. Opinions of the extent of this influence on legislation vary between a high estimate, according to which 80 per cent of legislative projects are linked in some way to the European Union, and a low estimate suggesting that the European dimension affects only 20 per cent of projects. Two-thirds of the government bills submitted to the Finnish Parliament in 2003 and 2004 had some connection with Community Law (*Paremman sääntelyn toimintaohjelma* [the *Better Regulation Programme*] 2006, 112–113). Finnish statutes are also affected by European Union Regulations, which have direct effect in all member states.

Community Law has a heritage that is alien to Finland. The regulation of European Union statutes is more detailed, and perhaps for this reason also more verbose, with a greater number of clauses and more complex sentence structures (for an analysis of the flaws of European legislative drafting, see Tanner 2006). There is also often a tendency to seek impressive and declarative formulations of a kind not found in Finnish legislation. There may likewise be a greater inclination in European Union statutes towards unclear formulations resulting from compromise. The translation strategy of the European Union for statutes has been for none of the language versions to deviate

far from the mode of expression of the source text. Finnish translation policies have also been highly conservative, especially in the early stages, and translators were instructed to stay close to the source text (Stenqvist 2000, 22).

Finnish politicians, public authorities and other users of Community Law statutes thus encountered a rather alien statute style in European Union legislation. They found the Finnish language Community Law statutes particularly strange. This is evident from the responses to a questionnaire that I sent to civil servants in Finnish central government departments in 1998. More than 80 per cent of the respondents felt that European Union texts in Finnish were hard to understand. The reasons given for this were, in particular, convoluted sentence structures (70 per cent of respondents) and alien terminology (64 per cent of respondents). About half considered the European Union texts that they had read in other languages to be more difficult than corresponding national statutes in the same language (Piehl 2000). I repeated this questionnaire again in 2007, and it provisionally appears that impressions of the difficulty of texts and of the reasons for this remain similar to those indicated in 1998 (Piehl, forthcoming). A public debate was held at the time of accession on whether the language of Community Law statutes would impair the language of Finnish statutes. Finland's Parliamentary Ombudsman later claimed that such a development had indeed occurred (reported in Finland's leading national daily newspaper *Helsingin Sanomat* on 30 May 2000). Officials responsible for drafting statutory proposals also feel that Community Law statutes have impaired the standard of legislation in Finland (*Better Regulation Programme* 2006, 140).

The effects of Community Law statutes do not seem to be especially prominent in the sentence structure of Finnish statutes, however. The findings of a comparison that I made between the features of laws enacted in 2002 and 2003 and those of their corresponding Directives indicate that sentences in the Directives are clearly longer in terms of both the number of words and the number of clauses used. They also contain at least as many nominalisations per clause as there are in Finnish statutes, despite using more sub-clauses. For example, there are still more participle modifiers in the Directives than in Finnish statutes (see Table 8.4) (Piehl 2006, 4).

Table 8.4 Length of sentences and clauses and percentage of clauses with participle modifiers and relative pronouns in Finnish/EU legislation

	Words/ sentence	Clauses/ sentence	Words/ clause	Percentage of clauses with participle modifiers	Percentage of clauses with relative pronouns
Finnish legislation 2002-2003	14.9	1.5	10.1	99.3	18.5
EU legislation in Finnish	19.8	2.2	9.1	101.6	22.5

A special guidebook, *Lainlaatijan EU-opas* [the *Legal Drafter's Guide to the European Union*],[5] has been prepared for implementing European Union Directives and was first published by the Ministry of Justice in 1997. This guidebook imposes the same requirements on Finnish statutes based on Community Law Directives as apply to statutes arising from purely domestic processes. The guidebook also notes that although the language of Community Law statutes differs from the language that is familiar in Finland, this is no justification for changing the language of Finnish statutes, which should evolve on its own terms. Problems arise, for example, due to the use of terms in the Directives that differ from those used in Finnish statutes, and due to unclear wording. According to the guidebook, the main rule is to use the terms of the Directives, but to deliberate carefully before changing the established terminology of the Finnish language. Even though the aim is to avoid modifying the interpretation of Directives in the course of national implementation, the *Legal Drafter's Guide to the European Union* nevertheless encourages the writer to aim for intelligibility:

> If the lack of clarity has not arisen at the translation stage, but is chiefly the outcome of a political compromise, then careful consideration should be given to how the Directive will be implemented. The writer must then take care to ensure that the national implementing provisions are formulated in clear language (*Legal Drafter's Guide to the European Union* 2004, 58).

Finnish civil servants were also given guidance on how to influence the formulation of Community Law statutes at the preparatory stage. The second government development programme for legal drafting published by the Ministry of Justice in 2000 gave civil servants involved in preparing Community Law statutes the objective of ensuring that those statutes would be intelligible to the general public. This is not a new idea for the European Union, but was also proposed in the 1998 *Inter-institutional Agreement on common guidelines for the quality of drafting of Community legislation*.[6] The latest Finnish development proposals for legal drafting make no separate reference to language, even though they stress the importance of participating in work to improve the quality of Community legislation.

Intelligibility: The aim but not always the outcome

There is unanimous agreement nowadays on the point that the language of statutes and public administration must be intelligible to the average member of the public. This has also been imposed as an aim in drafting statutory proposals in the latest guidelines and development programmes, such as the *Better Regulation Programme*[7] of autumn 2006 and the *Bill Drafting Instructions*[8] that were originally issued in

5 Available at <http://www.om.fi/25714.htm>.

6 Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31999Y0317(01):EN:NOT>.

7 Available at <http://www.vnk.fi/julkaisukansio/2006/j08-paremman-saantelyn-toimintaohjelma-osa-1/pdf/fi.pdf>.

8 Available at <http://www.om.fi/uploads/7b3b69oecmj2dy2.pdf>.

Finnish in 2004. The syllabus of law school programmes and of training for legal drafters working in government departments now includes modules on the factors that affect intelligibility. The Bureau of Legislative Inspection at the Ministry of Justice also reviews most statutes, and especially Acts of Parliament. However, there has been an ongoing debate in Finland since the 1980s on inadequacies in the quality of legislation and on the obscurity of statutes. The Finnish Parliament, for example, has complained about inadequacies in government bills on several occasions. Why is it that these good intentions do not seem to be realised, even though their importance has been stressed by imposing a legal duty on public authorities to pay attention to these aspects?

There are many reasons for the persistence of textual obscurity. Partly the problem lies in the function and character of the texts in question. Matters subject to regulation have become increasingly specialised and technical, making them ever more difficult to understand without expertise in the sector concerned. 21st century decrees, in particular, include quite detailed regulations. Community Law statutes also introduce further elements of this kind into Finnish legislation (*Better Regulation Programme* 2006, 140, 153). On the other hand, Acts of Parliament and Community Law statutes tend to function at a high level of generality, and it can be difficult to link phenomena described at this level to the concrete world that is familiar to the ordinary reader, nor are general abstract concepts of much use in so doing. The details of the legal system and practice that are necessary for interpreting statutes are likewise not fully explained in the statutes. Indeed statutes are also intended for a very broad range of users, and this can make it very difficult to formulate a text that is equally suitable for all of them.

A reason for obscurity can also be found in the procedures for preparing legislation. The Committee on Administrative Language originally observed that the drafter is always responsible for the intelligibility of a statute. Nowadays, however, it seems that the drafter has been left to bear this burden alone. No organised help or guidance in tackling problems of language use or feedback on intelligibility is available when the drafter is actually composing the statutory proposal. The content of courses on how to draft statutes remains divorced from the actual work of doing so, and legal inspection occurs at such a late stage that major reformulations of statutory proposals are no longer possible. One worthy opportunity to secure feedback on the intelligibility of statutes would be through discussions with the people who translate them, as all Finnish statutes are translated into Swedish. Unfortunately this has not been considered as a viable means of systematically improving the quality of texts drafted in the Finnish language, and translations are also generally made only at a very late stage. The instructions for preparing statutory proposals also fail to advise the drafter to pay attention to planning the linguistic style of a statute at the beginning of the project, and aspects of language only come to the fore at the finishing and polishing stage.

The Committee on Administrative Language did propose several measures, however, whereby government departments and other public authorities could be assigned responsibility for the linguistic quality of statutory proposals. They were required to arrange staff training and to conduct regular quality reviews of the texts that they produced. A responsible person from the authority was to be appointed to

perform the latter duty, which would also involve disseminating new instructions and recommendations to colleagues (see *Language and the Machinery of Administration* 1981). The *Decision on Administrative Language* also obliged public authorities to consider the standing arrangements that they would install to ensure the quality of statutes and other official written communications. They were required to report on these measures to the Ministry of Justice in respect of statutes and to the Ministry of Finance in other areas (Iisa and Piehl 1992, 112). With the exception of training, however, these instructions and recommendations were largely ineffectual. Training was also generally voluntary and often tended to appeal, in particular, to officials who were already interested in clarity of written expression and who were otherwise adept in this respect.

Minimal resources and a dearth of appreciation are also reasons why the goals of intelligibility and clarity have not been more energetically pursued, and legal drafters have been assumed to be able to tackle these aspects unassisted. These shortcomings in appreciation have not solely been a problem for the language and intelligibility of statutes, but it is evident from development proposals in recent years that preparing statutes has in general not been a matter of high priority for government departments in Finland. The programmes have criticised the leadership of government departments for failing to take an interest in improving the preparation of statutes or allocating the necessary resources to this activity. If legal drafters are constantly required to work in haste, then they will not have enough time to consider how their texts are composed or to attend to many other factors that affect the quality of statutes.

Following the parliamentary elections of spring 2007 the incoming government included implementation of the Better Regulation Programme in its programme. This programme once again stresses the point that legal drafters need training and support if they are to be able to formulate better statutes. At the time of writing the new government has not been in office long enough to allow any conclusion as to which programme proposals will be implemented and in what form. Ideally the goal of intelligible statutes will be given a realistic opportunity to become more than a mere aspiration.