

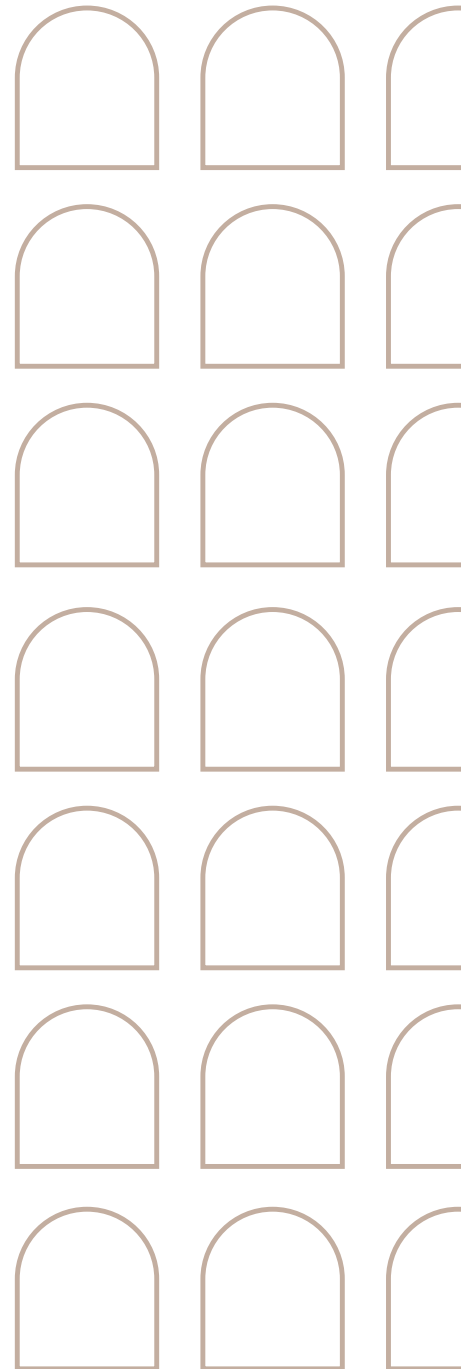
STG Policy Papers

# POLICY BRIEF

## WHAT IS THE ROLE OF FORESIGHT IN IMPACT ASSESSMENT? EARLY EXPERIENCE AND LESSONS FOR THE EUROPEAN COMMISSION

**Authors:**

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## EXECUTIVE SUMMARY

The European Union (EU) is engaged in a complex digital and ecological transition. The policy programmes launched by the EU to support recovery, resiliency and new modes of growth are definitively future-oriented. Foresight is therefore particularly appropriate for the current season of EU policies.

The European Commission adopted the first-ever [Strategic Foresight Report](#) in September 2020 to set out the rationale of foresight and chart priorities for the development of EU policies<sup>1</sup>. In the EU legislative cycle, new policy initiatives are supported by impact assessment. To state that foresight and impact assessment are not foes, but friends is uncontroversial, but less obvious is how to pin down how exactly they can be friends. We explain how foresight can add to impact assessment, and outline some issues that will have to be addressed in the near future.

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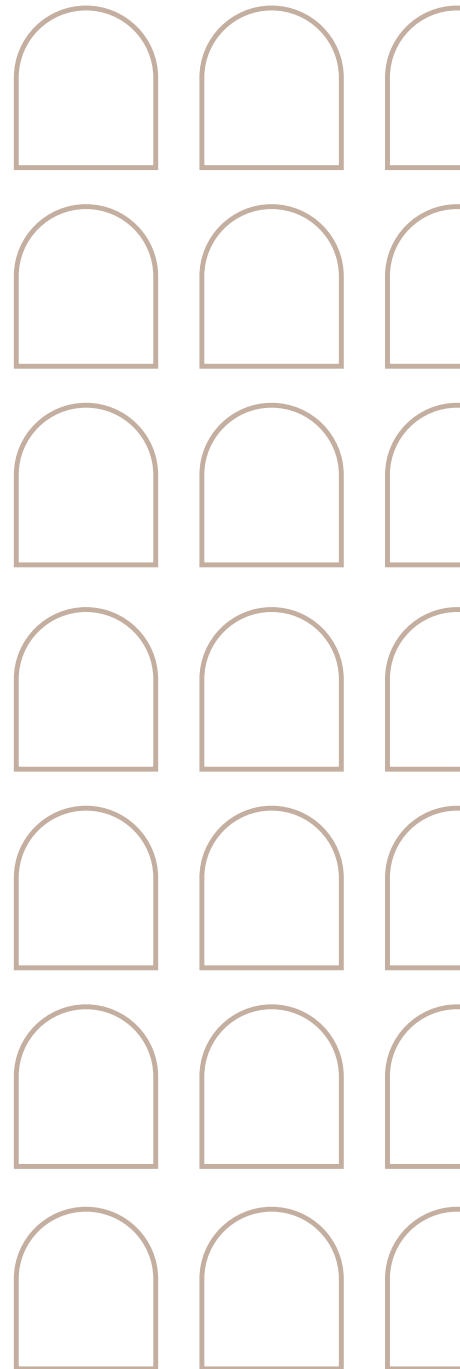
<sup>1</sup> Foresight is a set of methods and techniques to explore the future in a systematic and transparent way. The Commission adopts the concept of 'strategic foresight' to indicate the effort to embed foresight into the EU policy-making process.

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Views expressed in this publication reflect the opinion of individual authors and not those of the European University Institute. The authors gratefully acknowledge the support of the European Research Council, Project Procedural Tools for Effective Governance (PROTEGO) - ERC grant # 694632.



## 1. INTRODUCTION: HOW DID WE GET THERE?

From the outset, we need a bit of history. When the current European Commission took up office in 2019, the President entrusted Vice-President Šefčovič with the “interinstitutional relations and foresight” [portfolio](#). The coordination of better regulation also falls under the responsibility of Mr. Šefčovič. Consequently, on 23 January 2020 the mandate of the Commission’s body that scrutinizes the impact assessments produced by the Services (the Regulatory Scrutiny Body, RSB) was expanded to add a foresight dimension. The RSB, although independent in its decisions, reports to Šefčovič. The Commission President’s [Decision](#) to add foresight was a natural consequence of the organisational chart of the Commission.

Remember that this extension of the RSB mandate happened just weeks before the EU became acutely aware of the Covid-19 pandemic. At that time, no-one inside the Berlaymont could really tell how to integrate foresight into impact assessment – as we said, the RSB mandate was amplified following an organisational logic rather than a logic of intervention.

Oddly enough, art. 2.3 (on the RSB tasks) of the Decision combined the task to check on the foresight dimension of the Commission’s impact assessments with the commitment to the so-called one-in-one-out principle. The latter – the Decision explains - means that for “every legislative proposal creating new burdens should relieve citizens and businesses of an equivalent burden currently existing at Union level in the same policy area”.

Thus, in the same article of the Decision (2.3) the Commission was taking a long-term view (foresight) and a short-term view about regulatory burdens and the costs of regulations (as opposed to the net benefits of regulations). One-in-one-out does not stand up to logic: if in the long-term a new initiative generates high net benefits, the regulatory costs are already accounted for in the calculation of the

net present value. Since one-in-one-out was in the [working methods](#) of the von der Leyen Commission, this target had to be replicated in the RSB mandate. But then, to combine it with long-term and future-oriented perspective of foresight was a questionable choice.

Most thought the foresight vision for impact assessment practice would come with the publication of a new Communication on better regulation. The Commission was indeed supposed to produce a new Communication on better regulation in Spring 2020. The [Communication](#) instead appeared only on 29 April 2021 (the pandemic certainly had a role in this delay). The revised [toolbox](#) for carrying out the Commission’s impact assessments was published on 25 November 2021. The pandemic thus on the one hand delayed analytical thinking about the exact function of foresight in the analysis of the likely effects of policy proposals. On the other, from March 2020 onwards, Covid-19 provided a vivid, painful illustration of why foresight is needed when planning new initiatives.

## 2. THE EARLY EXPERIENCE WITH THE INTEGRATION OF FORESIGHT INTO IMPACT ASSESSMENT

The RSB has given advice in the preparation of the toolbox for better regulation. The Board has also started providing advice to the Commission departments (the Directorates General)<sup>2</sup> on how to integrate foresight into better regulation and specifically impact assessment. This is done via meetings between members of the Board and the officers in charge of impact assessment in their Unit – this is called by the RSB “upstream support”. Already in the [2020 Report](#), the RSB gave examples of upstream support in the revision of the ETS State Aid guidelines (asking to build into the revision flexibility to adapt to future changes), the evaluation of the trans-European network transport guidelines, the preparation of the impact assessment supporting the revision of the Critical infrastructure directive, and the development of the impact assessments for the Digital Services Act and

<sup>2</sup> Today the Commission prefers the language of departments and agencies, whereas Directorates General dominated for a long time the organisational vocabulary, see [https://ec.europa.eu/info/about-european-commission/organisational-structure/how-commission-organised\\_en](https://ec.europa.eu/info/about-european-commission/organisational-structure/how-commission-organised_en)

the Roaming regulation. In the last two cases, the Board asked to ‘future-proof’ the options being considered. The 2020 Report also provides examples of how the RSB opinions include recommendations related to foresight, pointing to the impact assessments on the European partnership on metrology, and the revision of the Critical infrastructure directive. The opinions are RSB decisions on whether an impact assessment is sufficiently robust or needs to be changed and resubmitted to the Board.<sup>3</sup>

This year the new better regulation toolbox has become applicable. The new tool 20 is dedicated to foresight methodologies and approaches. Megatrends and future scenarios are explicitly mentioned. Scenarios – tool 20 informs - should be considered in a proportionate way in different sections of the impact assessment. They can inform the definition of the problem that requires intervention, the measurement of how the baseline will evolve in the future, the dynamic nature of policy objectives, policy options and ultimately the economic appraisal of benefits and costs. Beyond this, the Commission officers can rely on the [Competent Centre for Foresight](#) launched in June 2018 and the models of the Joint Research Centre (JRC), in particular [MIDAS](#), the Competence Centre of Modelling (which however has a scope broader than foresight, that is, to support the use of all sorts of modelling in impact assessment and better regulation).

Foresight, so far, has been deployed in building scenarios and in making references to megatrends - as suggested by tool 20. Climate is for obvious reason a policy domain where foresight is practically indispensable. Indeed, the impact assessment accompanying the Directive on aviation [emission reduction target](#) (SWD 2021 603) has drawn on the PRIMES model to simulate the projection of energy demand, supply, and prices. Similarly, the impact assessment on the new EU strategy on [adaptation to climate change](#) (SWD 2021

26) makes use of the JRC PESETA report to estimate possible climate impacts for the planet, the people and prosperity in case no climate action is taken.

### 3. THE WAY(S) FORWARD

Overall, the experience with foresight in better regulation is still limited, and this makes it important to think about what to do next. Is foresight just about adding scenarios and megatrends to impact assessment, or can it go deeper? What is the potential of foresight for the whole of better regulation tools, linking ex post evaluations to impact assessment? And finally, what are the limitations of foresight? Let us start by zooming on the practice of impact assessment first, and then move to the whole of better regulation and the role of the RSB.

#### 3.1 Distributional impacts

The distributional effects of long-term, transformative policies like the Green Deal are key to policy design. These effects also have political consequences since the short-term losers of these policies can be in the segments of the population with lower income. There are fundamental equity issues that must be raised and addressed in impact assessment, as shown by the [US experience](#).

Consequently, the analysis of distributional effects should be cast in a foresight framework. Foresight can assist in mapping the likely evolution of distributional effects. In turn, distributional effects can be intervening variables in scenario building, or make a scenario less or more desirable.

#### 3.2 Innovation

Foresight and innovation have natural affinities. They are both future-oriented. For the EU, the integration of foresight in the assessment of how a proposal affects innovation brings in the question of balancing precaution and innovation. Foresight can assist in this delicate balancing act, by anchoring both the operationalization of the precautionary

<sup>3</sup> The full range of RSB opinions includes “positive”, “positive with reservations”, and “negative”, the latter implying a resubmission leading in due course to a second opinion of the Board. If the Board issues a second negative opinion, only the Vice-President for Institutional Relations and Foresight may give the go ahead to interservice consultation on the corresponding initiatives. Finally, the Board has the tasks to scrutinize evaluations and the implementation of the evaluate-first principle, hence its duties cover the full spectrum of better regulation tools.

principle and the dimension of innovation to explicit, evidence-informed conjectures about future cause-and-effect relationships. So far, the fact that the Commission and the Council do not have exactly the same [approach](#) to how to integrate innovation into impact assessment has not facilitated the balancing act across institutions. In principle, foresight could make this dialogue at least more transparent.

### 3.3 Probabilistic benefit-cost analysis

In the practice of impact assessment, benefit-cost analysis considers streams of benefits and costs accruing over different time periods to different stakeholders and sectors. These streams are then re-conducted to their present value. A net present value for an option (such as setting a standard on the presence of a given chemical in water) is then calculated.

Different options can then be compared in terms of their net present values and the one with the higher net present value is the strongest (at least in terms of benefit-cost analysis). Now enter foresight. Since foresight typically offers ways to assign probabilities to events that occur in the future, one could think of using the results of foresight analysis to assign probabilistic values to the most important categories of costs and benefits. A cost can have a present value of  $n$  Euros with 0.8 probability, and  $n+k$  Euros with 0.2 probability. One could even think of assigning probabilities to the very appearance of a benefit, for example by saying that there will be benefits for category  $x$  with 0.9 probability, and confront this value with the benefits for category  $y$  that have however only a 0.6 probability. The risk with this approach is to create more fuzziness into benefit-cost analysis and more uncertainty about what to do. But after all probability theory is about handling uncertainty in rigorous and transparent ways, and computational problems about large amount of data are no longer an issue today.

### 3.4 Integrating foresight into better regulation

Foresight can assist also in integrating the ex-ante and ex-post dimension of better regulation. The Commission is committed to

the principle of evaluating first, meaning that before new appraisal work can be carried out on a proposal, the officers have to consider what the evaluation of the present policies says. Equally important, the Commission is engaged in looking at the stock of EU legislation with a fit-for-future approach, meaning that existing directives and regulations should be sufficiently resilient and useful in the context of big, transformational changes like the ones contained in the work programme of the Commission (and more generally the EU).

As suggested by [Ribeiro and Weiner](#), legislative evaluations (also called retrospective reviews) should produce learning about multiple impacts, the logic of change, and how policies will adapt or do not adapt to changing contexts. This learning should inform the foresight analysis that feeds into impact assessment. All too often retrospective reviews are carried out with the aim of reducing administrative burdens or compliance costs. In a future-oriented context, a retrospective review should compare an actual policy to a counterfactual scenario of how the world should have been without that policy. Retrospective observations on the causal logic of change are fundamental stepping stones in strategic foresight. Policy-makers that learn this type of lessons from the past have a greater ability to foresee the consequences of their new initiatives. The limit is that this learning process has its own costs in terms of resources and time. For this reason, it should be applied to the most important retrospective reviews – Ribeiro and Wiener rightly observe. In any case, the experience of the Commission with legislative evaluations should move from an emphasis on administrative burdens to thinking in terms of learning and strategic foresight.

### 3.5 Participatory Foresight and consultation

So far, we have considered strategic foresight (see note 1). But in the future foresight could integrate elements of participation, moving closer to participatory foresight. This can be done at the stage of consultation: the opinions and knowledge of stakeholders can be leveraged around alternative scenarios. Foresight techniques are more trustworthy

if they are not parachuted from above, but include stakeholders in meaningful ways. To illustrate with an example from a previous [STG Policy Paper](#), a technique like Delphi can be used to generate among participants a sense of ownership of the future(s). In turn, the probabilities created via Delphi could be used in benefit-cost analysis, as suggested above. Scenario workshops can be more or less participatory, more or less open to a combination of lay and professional knowledge. They should be geared to include those voices that are often [silenced](#) or simply [not heard](#) in policy formulation.

### 3.6 The role of oversight

Turning to institutional checks, the RSB must carry on with supporting learning processes in the departments and agencies of the Commission. Soft approaches like upstream advice in the preparatory steps of impact assessment are congenial to learning. However, the Commission officers are presumably wondering about what level of foresight analysis is considered appropriate by the RSB, what is 'sufficient' to obtain a positive opinion, what is best practice. We are talking about the expectations of the officers. The RSB does not write formal guidance for the Commission departments and agencies. But it could publish working papers on good practice in foresight methodology. As soon as there is more experience, the RSB could publish the most relevant opinions (with foresight aspects) in a single document, with an introduction explaining the arguments and ways of reasoning behind the opinions. That would show the forest (the logic) behind the individual trees (the opinions).

### 3.7 Limits of foresight

Foresight is a soft discipline. It is a set of tools to model the future. It is not hard science. No-one has the crystal ball. The last thing we need is to escalate expectations about foresight in better regulation. The very nature of some better regulation tools, particularly impact assessment, is to think about the likely future effects of proposals. Impact assessment logic ties in well with the logic of foresight.

But robust evidence on, for example, costs, benefits, distributional data on the present is of a different nature. It does not belong to the same class of prospective conjectures about how evidence will manifest in the future. The key is to find bridges between the two, not to devalue present-time hard evidence in the name of scenario building. More importantly still, we have to take foresight for what it is, with its in-built limitations. Foresight should not provide a false sense of certainty because its logic is probabilistic and to some extent subjective (for example in Delphi). A final risk or limitation lies at the opposite side of the spectrum, where foresight becomes a section on megatrends somewhere in the impact assessment, without connections to how the logic of regulatory intervention unfolds. One should be able to see clearly how impact assessments change because of foresight – meaning, the difference and added value that foresight brings.

## 4. CONCLUSION

In conclusion, there is considerable potential in the arrival of foresight into impact assessment and better regulation. Its most precious functions are conceptual, and hard to pin down in formal guidance. But for us the most important functions are about opening the peripheral vision in policy design, assessing options against scenarios, and dealing with key uncertainties by modelling the causality behind them. Three big opportunities for a season of impact assessments that will support the ecological and digital transformation of the EU, as well as assisting the Member States in their plans for recovery and resilience. With these opportunities comes the challenge of integrating foresight and impact assessment into widely shared beliefs about governance and society. Innovation, climate, public health, energy, public budgets and other long term issues must be managed with a long-term perspective, where both the tool and democratic visions of '[future-regarding action](#)' travel together.

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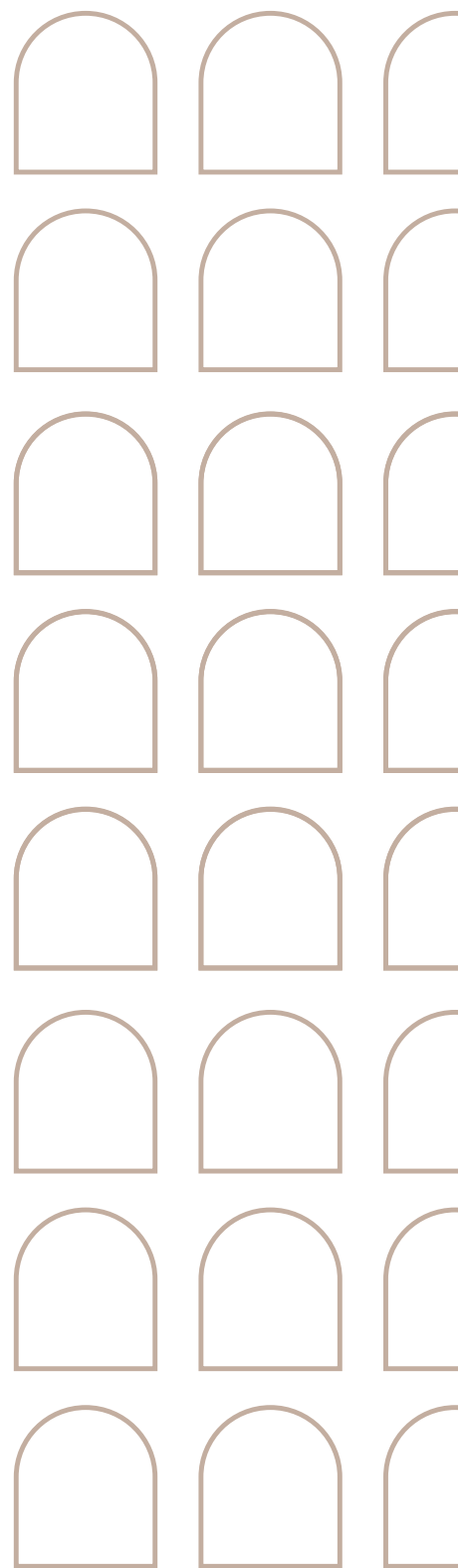
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**doi: 10.2870/959400**  
**ISBN: 978-92-9466-228-6**  
**ISSN: 2600-271X**  
**QM-BA-22-017-EN-N**

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