

Directive relating to oversight of the intelligence, surveillance and security services (EOS)

Issued pursuant to section 1 of Act No. 7 of 3 February 1995 relating to the Oversight of Intelligence, Surveillance and Security Services.

Section 1. *On the Oversight Committee and its secretariat*

The Committee shall have seven members including the chair and deputy chair, all elected by the Storting, on the recommendation of the Presidium of the Storting, for a period of no more than five years. Steps should be taken to avoid replacing more than four members at the same time.

The members of the Committee shall have the highest level of security clearance and authorisation, both nationally and according to treaties to which Norway is a signatory.

Remuneration to the Committee's members shall be determined by the Presidium of the Storting.

The chair of the Committee's secretariat shall be appointed and the chair's remuneration stipulated by the Presidium of the Storting on the basis of a recommendation from the Committee. Appointment and stipulation of the remuneration of the other secretariat members shall be made by the Committee. More detailed rules on the appointment procedure and the right to delegate the Committee's authority will be stipulated in personnel regulations to be approved by the Presidium of the Storting. The provision in the second subsection applies similarly to all employees in the secretariat.

Section 2. *Quorum and working procedures*

The Committee has a quorum when five members are present. The Committee shall as a rule function jointly, but may divide itself during inspection of service locations or installations.

In connection with particularly extensive investigations, the procurement of statements, inspections of premises, etc. may be carried out by the secretary and one or more members. The same applies in cases where such procurement by the full committee would require excessive work or expense. In connection with hearings, as mentioned in this Section, the Committee may engage assistance. It is then sufficient that the secretary or a single member participates.

The Committee may also otherwise engage assistance when special expertise is required.

Persons who have previously functioned in the intelligence, surveillance and security services may not be engaged to provide assistance.

Section 3. *Procedure regulations*

The secretariat keeps a case journal and minute book. Decisions and dissenting opinions shall appear from the minute book.

Statements and notes which appear or are entered in the minutes during oversight activities are not considered made unless communicated in writing.

Section 4. *Oversight limitations etc.*

The oversight activities do not include activities which concern persons or organisations not domiciled in Norway, or foreigners whose stay in Norway is in the service of a foreign

state. The Committee can, however, exercise oversight in cases as mentioned above when special reasons so indicate.

The oversight activities should be exercised so that they pose the least possible disadvantage for the current activities of the services. The ministry appointed by the King can, in times of crisis and war, suspend the oversight activities in whole or in part until the Storting decides otherwise. The Storting shall be notified of such suspension immediately.

Section 5. *Access limitations*

The Committee shall not seek more extensive access to classified information than warranted by its oversight purposes. Insofar as possible, the concern for protection of sources and safeguarding of information received from abroad shall be observed.

Information received shall not be communicated to other authorised personnel or to other public bodies which are not already privy to them unless there is an official need for this, and it is necessary as a result of the oversight purposes or results from case processing provisions in Section 9. If in doubt, the provider of the information should be consulted.

Section 6. *Disputes concerning access to information and oversight*

The decisions of the Committee concerning what it shall seek access to and concerning the scope and extent of the oversight shall be binding on the administration. The responsible personnel at the service location concerned may demand that a reasoned protest against such decisions be recorded in the minutes. Protests following such decisions may be submitted by the head of the respective service and the Chief of Defence.

The protest shall, as mentioned here, be included in or enclosed with the Committee's annual report.

Section 7. *On the oversight and statements in general*

The Committee shall adhere to the principle relating to subsequent oversight. The Committee may, however, demand access to and make statements about current cases.

The Committee shall base its oversight and the formulation of its statements on the principles set down in Section 10, first subsection and Section 10, second subsection, first, third and fourth sentence, and Section 11 of the Act concerning the Storting's Ombudsman for public administration. The Committee may also propose improvements in administrative and organisational arrangements and routines where these can make oversight easier or safeguard against injustice being done.

Before making a statement in cases which may result in criticism or opinions directed at the administration, the head of the service in question shall be given the opportunity to make a statement on the issues raised by the case.

Statements to the administration shall be directed to the head of the service or body in question, or to the Chief of Defence or the competent ministry if the statement relates to matters they should be informed of as the commanding and supervisory authorities.

In connection with statements which contain requests to implement measures or make decisions, the recipient shall be asked to report on any measures taken.

Section 8. *On complaints*

On receipt of complaints, the Committee shall conduct such investigations of the administration as are appropriate in relation to the complaint. The Committee shall decide whether the complaint gives sufficient grounds for further action before making a statement.

Statements to complainants should be as complete as possible without revealing classified information. Statements in response to complaints against the Police Security Service

concerning surveillance activities shall however only state whether or not the complaint contained valid grounds for criticism. If the Committee holds the view that a complainant should be given a more detailed explanation, it shall propose this to the Ministry concerned.

If a complaint contains valid grounds for criticism or other comments, a reasoned statement shall be addressed to the head of the service concerned or to the ministry concerned. Statements concerning complaints shall also otherwise always be sent to the head of the service against which the complaint is made.

Section 9. Procedures

Conversations with private individuals shall be in the form of an examination unless they are meant to merely brief the individual. Conversations with administration personnel shall be in the form of an examination when the Committee sees reason for doing so or the civil servant so requests. In cases which may result in criticism being levied at individual civil servants, the examination form should generally be used.

The person who is being examined shall be informed of his or her rights and obligations, cf. Section 5 of the Act relating to the Oversight of Intelligence, Surveillance and Security Services. In connection with examinations that may result in criticism of the administration's personnel and former employees, said individuals may also receive the assistance of an elected union representative who has been authorised according to the Security Act with pertinent regulations. The statement shall be read aloud before being approved and signed.

Individuals who may become subject to criticism from the Committee should be notified if they are not already familiar with the case. They are entitled to familiarise themselves with the Committee's unclassified material and with any classified material they are authorised to access, insofar as this does not impede the investigations.

Anyone who submits a statement shall be presented with evidence and claims which do not correlate with their own evidence and claims, insofar as these are unclassified or the person has authorised access.

Section 10. Investigations at the ministries

The Committee cannot demand access to the ministries' internal documents.

Should the Committee desire information or statements from a ministry or its personnel in other cases than those which concern the ministry's handling of clearance and authorisation of persons and enterprises, these shall be obtained in writing from the ministry.

Section 11. Inspection

1. Responsibilities for inspection are as follows:

- a) For *the intelligence service*: to ensure that activities are carried out within the framework of the service's established responsibilities, and that no injustice is done to any person.
- b) For *the National Security Authority*: to ensure that activities are carried out within the framework of the service's established responsibilities, to oversee clearance matters in relation to persons and enterprises for which clearance has been denied, revoked, reduced or suspended by the clearance authorities, and also to ensure that no injustice is done to any person.
- c) For *the Police Security Service* : to oversee that the service's handling of preventive cases and investigations, its use of concealed coercive measures, its processing of personal data, and the exchange of information with domestic and foreign collaborative partners is carried out in accordance with current regulations, and meets

the requirements for satisfactory routines within the framework of the purpose stated in Section 2 of the Act.

- d) For *the Defence Security Section*: to oversee that the service's exercise of personnel security clearance activities and other security clearance activities are kept within the framework of laws and regulations and the service's established responsibilities, and also to ensure that no injustice is done to any person.
- e) For all services: to ensure that the cooperation and exchange of information between the services is kept within the framework of service needs and applicable regulations.

2. Inspection activities shall, as a minimum, involve:

- a) half-yearly inspections of the Intelligence Service, involving accounts of current activities and such inspection as is found necessary.
- b) quarterly inspections of the National Security Authority, involving a review of matters mentioned under 1 b and such inspection as is found necessary.
- c) Six inspections per year of the Central Unit of the Police Security Service, involving a review of new cases and the current use of concealed coercive measures, including at least ten random checks in archives and registers at each inspection, and involving a review of all current cases at least twice a year.
- d) Three inspections per year of the Defence Security Service, including a review of the agency as a clearance authority, and a review of other security-related activities as found necessary.
- e) annual inspection of at least four police districts, at least two Intelligence Service Units and/or intelligence/security services at military units and of the personnel security service of at least two ministries/government agencies.
- f) inspection of measures implemented on its own initiative by the remainder of the police force and by other bodies or institutions that assist the Police Security Service.
- g) other inspection activities indicated by the purpose of the Act.

Section 12. *Information to the public*

Within the framework of the third paragraph of Section 9 of the Act cf. Section 8, paragraph 1, the Committee shall decide what information shall be made public concerning matters on which the Committee has commented. When mentioning specific persons, consideration shall be given to protection of privacy, including persons not issuing complaints. Civil servants shall not be named or in any other way identified except by authority of the ministry concerned.

In addition, the chair or whoever the Committee authorises can inform the public of whether a case is being investigated and if the processing has been completed or when it will be completed.

Section 13. *Relationship to the Storting*

1. The provision in Section 12, first subsection, correspondingly applies to the Committee's notifications and annual reports to the Storting.
2. Should the Committee find that the consideration for the Storting's supervision of the administration dictates that the Storting should familiarise itself with classified information in a case or a matter the Committee has investigated, the Committee must notify the Storting specifically or in the annual report. The same applies to any need for further investigation into matters which the Committee itself cannot pursue further.

3. By 1 April every year, the Committee shall report its activities in the preceding year to the Storting.

The annual report should include:

- a) an overview of the composition of the Committee, its meeting activities and expenses.
- b) a statement concerning implemented supervision activities and the result of said activities.
- c) an overview of complaints by type and service branch, indicating what the complaints resulted in.
- d) a statement concerning cases and matters raised on the Committee's own initiative.
- e) a statement concerning any measures the Committee has requested be implemented and what these measures led to, cf. Section 6, fifth subsection.
- f) a statement concerning any protests pursuant to Section 5.
- g) a statement concerning any cases or matters which should be put before the Storting.
- h) the Committee's general experiences from the oversight activities and the regulations and any need for changes.

Section 14. *Financial management, expense reimbursement for persons summoned before the Committee and experts*

1. The Committee is responsible for the financial management of the Committee's activities, and stipulates its own financial management directive. The directive shall be approved by the Presidium of the Storting.
2. Anyone summoned before the Committee is entitled to reimbursement of any travel expenses in accordance with the State travel allowance scale. Loss of income is reimbursed in accordance with the rules for witnesses in court.
3. Experts are remunerated in accordance with the courts' fee regulations. Higher fees can be agreed. Other persons assisting the Committee are reimbursed in accordance with the Committee scale unless otherwise agreed.