

**Special report to the Storting**

***The EOS Committee's investigation into the  
methods used by the Norwegian Police  
Surveillance Service (POT) in the Treholt case***

# CONTENTS

<b>I</b>	<b>INTRODUCTION</b> .....	<b>4</b>
<b>II</b>	<b>GENERAL INFORMATION ABOUT THE INVESTIGATION</b> .....	<b>4</b>
<b>1</b>	<b>Remit</b> .....	<b>4</b>
<b>2</b>	<b>Terminology</b> .....	<b>5</b>
<b>3</b>	<b>Limitations</b> .....	<b>5</b>
<b>4</b>	<b>The purpose of the investigation and the Committee's role</b> .....	<b>6</b>
<b>III</b>	<b>IMPLEMENTATION OF THE INVESTIGATION</b> .....	<b>6</b>
<b>1</b>	<b>General information about sources and investigation methods</b> .....	<b>6</b>
<b>2</b>	<b>Archives and registers</b> .....	<b>6</b>
<b>3</b>	<b>Questioning and interviews</b> .....	<b>7</b>
<b>4</b>	<b>Expert assistance</b> .....	<b>8</b>
<b>5</b>	<b>Resources and organisation – the Committee's consideration of the case</b> .....	<b>8</b>
<b>IV</b>	<b>THE SURVEILLANCE</b> .....	<b>9</b>
<b>1</b>	<b>Introduction</b> .....	<b>9</b>
	1.1 <i>General</i> .....	9
	1.2 <i>Sources</i> .....	9
	1.3 <i>Limitations</i> .....	9
<b>2</b>	<b>Technical surveillance arrangements</b> .....	<b>10</b>
	2.1 <i>Introduction</i> .....	10
	2.2 <i>POT's flat – the surveillance room</i> .....	10
	2.3 <i>About the surveillance operation</i> .....	10
	2.4 <i>Covert audio surveillance</i> .....	13
	2.5 <i>Video surveillance</i> .....	14
	2.6 <i>More about the work in the surveillance room</i> .....	17
	2.7 <i>Storage of recordings and written material</i> .....	18
	2.8 <i>Summary of the technical surveillance arrangements</i> .....	19
<b>3</b>	<b>Telephone surveillance</b> .....	<b>19</b>
	3.1 <i>Introduction</i> .....	19
	3.2 <i>Overview of court permissions for telephone surveillance</i> .....	19
	3.3 <i>Comments</i> .....	20
	3.4 <i>Oversight</i> .....	20
<b>4</b>	<b>Secret searches</b> .....	<b>20</b>
	4.1 <i>Introduction</i> .....	20
	4.2 <i>Secret searches on 17 May and 22 August 1983</i> .....	21
	4.3 <i>Reconnaissance, installation and maintenance of equipment etc.</i> .....	21
	4.4 <i>Copying of key</i> .....	22
<b>5</b>	<b>Other intelligence, surveillance or security services</b> .....	<b>22</b>
<b>6</b>	<b>POT's consideration of the legal basis for and purpose of the surveillance</b> .....	<b>22</b>
	6.1 <i>POT's consideration of the legal basis for the surveillance</i> .....	22
	6.2 <i>POT's consideration of the purpose of the surveillance</i> .....	23
<b>V</b>	<b>THE SUPERIOR AUTHORITY'S INVOLVEMENT IN THE CASE AND THE METHODS USED</b> <b>24</b>	
<b>1</b>	<b>Introduction</b> .....	<b>24</b>
	1.1 <i>Remit and method</i> .....	24
	1.2 <i>The division of responsibility between the Ministry of Justice and the Director General of Public Prosecutions during the case – the regulatory situation</i> .....	24
<b>2</b>	<b>Results of the Committee's investigation</b> .....	<b>25</b>
	2.1 <i>The Director General of Public Prosecutions</i> .....	25
	2.2 <i>The Ministry of Justice</i> .....	27
<b>VI</b>	<b>THE LEGAL BASIS FOR THE METHODS USED</b> .....	<b>29</b>
<b>1</b>	<b>Introduction</b> .....	<b>29</b>

1.1	<i>Overview</i> .....	29
1.2	<i>Challenges</i> .....	30
<b>2</b>	<b>The prevailing law at the time of the surveillance</b> .....	<b>30</b>
2.1	<i>Introduction</i> .....	30
2.2	<i>Surveillance methods</i> .....	30
<b>3</b>	<b>Necessity as a legal basis</b> .....	<b>32</b>
3.1	<i>External legal opinion</i> .....	32
3.2	<i>A brief description of the legal opinion and the Committee's assessment of it</i> .....	32
3.3	<i>The main points and conclusions of the legal opinion</i> .....	33
<b>VII</b>	<b>THE COMMITTEE'S CONCLUSIONS</b> .....	<b>36</b>
<b>VIII</b>	<b>APPENDIX</b> .....	<b>40</b>
<b>2.</b>	<b>Photo from the surveillance room</b> .....	<b>40</b>
<b>3.</b>	<b>Surveillance timeline</b> .....	<b>41</b>
<b>4.</b>	<b>References</b> .....	<b>43</b>

## I INTRODUCTION

In autumn 2010, the former Norwegian Police Surveillance Service (POT) was accused of having fabricated the so-called 'cash evidence'. This allegation was made in the book *Forfalskningen – Politiets løgn i Treholtsaken* ('The Fabrication – the police's lie in the Treholt case' – in Norwegian only). Media coverage followed, claiming that POT had kept the Treholt family under surveillance for one and a half years in their flat in Oscars gate 61 in Oslo. This surveillance allegedly continued until Arne Treholt was arrested and charged with espionage on 20 January 1984. The methods allegedly used by POT were criticised by the media.

The Committee considered whether it should instigate an investigation into the Treholt case on its own initiative. Considering the time that has passed, an investigation into the methods used by POT in the case is at the outer extent of the Committee's oversight purpose pursuant to section 2 of the Norwegian Act relating to the Oversight of Intelligence, Surveillance and Security Services. However, because of the seriousness of the allegations against the methods used by POT and the political and historical importance of the case, the Committee decided on 22 September 2010 that it would nonetheless investigate the methods used by POT in this case. The Committee announced its decision in a press release on the same day.

Following the Committee's decision to investigate the matter, the former chair of the commission appointed by the Storting in 1994 to investigate allegations of illegal surveillance of Norwegian citizens, the *Lund Commission*, announced in a press release that the Commission became well aware of video surveillance of Treholt's flat during work on its report. The video surveillance was not mentioned in the *Lund Report*, however.

Allegations of covert audio surveillance of the Treholt family's flat have previously been mentioned in Trond Bergh and Knut Einar Eriksen's book *Den hemmelige krigen – overvåking i Norge 1914–1997* ('The secret war – surveillance in Norway 1914-1997' – in Norwegian only), volume 2, page 325.

## II GENERAL INFORMATION ABOUT THE INVESTIGATION

### 1 Remit

The Act relating to the Oversight of Intelligence, Surveillance and Security Services section 2 states that the purpose of the oversight carried out by the Norwegian Parliamentary Intelligence Oversight Committee (the EOS Committee) is to 'to ascertain and prevent any exercise of injustice against any person, and to ensure that the means of intervention employed do not exceed those required under the circumstances, and that the services respect human rights'. Moreover, the purpose of the Committee's oversight is to ensure that the activities of the intelligence, surveillance, and security services do not involve undue damage to civic life and that the activities are kept within the framework of statute law, directives and non-statutory law.

Although the Committee's oversight of the intelligence, surveillance, and security services is primarily aimed at the activities of the services in their present form, there is nothing to prevent the Committee from exercising its oversight function in relation to activities in the past, including events before the EOS Committee was established in 1996. The Act relating to the Oversight of Intelligence, Surveillance and Security Services section 3 states that the Committee 'shall on its own initiative deal with all matters and factors that it finds appropriate to its purpose, and particularly matters that have been subjected to public criticism'.

The following remit for the investigation was adopted at the EOS Committee's meeting on 24 November 2010:

'The Committee shall investigate whether the Norwegian Police Surveillance Service (POT), or another intelligence, surveillance or security service, used illegal methods in the Treholt case. If this is the case, the Committee shall endeavour in particular to clarify the extent to which such methods were used, the question of legal authority, who knew about the methods used and who authorised them.'

The Committee notified the Storting that it wished to report its findings and conclusions in an unclassified special report pursuant to the Act relating to the Oversight of Intelligence, Surveillance and Security Services section 8 subsection 2, cf. section 13 of the Instructions for Oversight of Intelligence, Surveillance and Security Services.

## 2 Terminology

The Committee's remit was to investigate whether POT, or another intelligence, surveillance or security service, 'used illegal methods in the Treholt case'.<sup>1</sup>

No unambiguous definition exists of what constitutes a *method* in the police context. In a broad sense, the term covers all means whereby the police carry out their tasks, also called police methods. By investigation methods is meant the means whereby information is obtained in connection with the *investigation* of criminal offences. Such methods can be warranted by legislation as well as by non-statutory law, depending on how far they are deemed to encroach on the legal rights of citizens.

At the time when Treholt was under surveillance, POT was permitted to use both statutory and non-statutory methods in its activities. In this investigation, the EOS Committee has focused in particular on methods of a nature that, pursuant to the principle of legality, requires them to be warranted by legislation, for example covert audio surveillance. The use of non-statutory methods such as visual observation in public places, entrapment, infiltration and the use of informers and sources etc. has not been investigated to the same extent.

## 3 Limitations

The Committee's investigation is primarily limited to the surveillance carried out by POT of Treholt on Norwegian territory prior to his arrest. The investigation covers both the methods used by POT in relation to Treholt for surveillance purposes and the use of methods that were, in the legal sense, deemed to be means of investigation. However, the distinction between preventive activities and investigation was much less clear at the time than it is today.

Pursuant to the Act relating to the Oversight of Intelligence, Surveillance and Security Services section 1 second paragraph, the Committee's oversight of intelligence, surveillance and security services shall not apply to any superior prosecuting authority. The term 'superior prosecuting authority' covers the Office of the Director General of Public Prosecutions and the offices of the public prosecutors. The responsibility and role of these offices during the investigation of the case have therefore not been assessed. Nor has the Ministry of Justice's responsibility and role in the case been assessed, as this falls outside the scope of the Committee's oversight activities.

The Committee has nonetheless, in accordance with its remit, investigated who knew of the methods used by POT in relation to Treholt, also within the superior authorities.<sup>2</sup>

---

<sup>1</sup> The other organised services at the time were Headquarters Defence Command Norway/Security Headquarters (FO/S) and Headquarters Defence Command Norway/Intelligence Headquarters (FO/E).

<sup>2</sup> In this context, superior authorities mean the Ministry of Justice and the superior prosecuting authority.

#### **4 The purpose of the investigation and the Committee's role**

The purpose of the EOS Committee's investigation has been to map the methods used before Treholt's arrest in January 1984. The Committee's investigation has primarily been aimed at clarifying the facts of the case.

The Committee's investigation has been carried out on an independent basis, separately from and independently of the reconsideration by the Norwegian Criminal Cases Review Commission of Treholt's application to have the criminal case reopened, which also started in autumn 2010. The Committee's investigation into the methods used by POT in the Treholt case thus has no connection with the possible reopening of the criminal case.

During their respective investigations, the EOS Committee and the Norwegian Criminal Cases Review Commission have interviewed some of the same persons (POT employees). With the interviewees' consent, the Committee was given access to the interviews carried out by the Norwegian Criminal Cases Review Commission.

During the investigation period, the Committee has continued its ordinary oversight activities in relation to the intelligence, surveillance, and security services pursuant to the Act relating to the Oversight of Intelligence, Surveillance and Security Services.

### **III IMPLEMENTATION OF THE INVESTIGATION**

#### **1 General information about sources and investigation methods**

The Committee has reviewed the archive of the Headquarters of the Norwegian Police Security Service<sup>3</sup> (PST), the material from the criminal case against Treholt and the Storting's archive for the Lund Commission. It has also obtained other relevant documentation and archive material as necessary.

The Committee has conducted interviews in the form of formal questioning of POT employees who were involved in the Treholt case. However, several important POT employees have passed away. One person from POT's leadership has been unable to give his account to the Committee for medical reasons.

The Committee has also asked some former and present persons from the superior authority to make voluntary statements to the Committee about what they know about the case and the methods used in relation to Treholt. All the persons invited attended interviews and made voluntary statements to the Committee.

In accordance with the Act relating to the Oversight of Intelligence, Surveillance and Security Services, the Committee decided to engage a police expert in connection with the interviews and formal questioning, and it chose Nina Karstensen Bjørlo, who is head of criminal investigations in Asker and Bærum Police District.

#### **2 Archives and registers**

##### *The archive of the PST Headquarters*

The Committee has carried out physical inspections of the archive in the PST Headquarters, and carried out thorough examinations of case documents in the observation case against Treholt, the so-called 'Foxtrot case'. This was the part of the Treholt case that preceded the criminal proceedings and that was not presented to the court. The Committee has on some occasions had some of the archive material sent to its office for more detailed review. The Committee has also examined other relevant documents that have been stored in the service's central archive, documents that were neither related to the criminal case nor to the observation case against Treholt.

---

<sup>3</sup> From 1 January, 2002 the name of the agency was changed from the Norwegian Police Surveillance Service (POT) to the Norwegian Police Security Service (PST).

#### *The criminal case against Arne Treholt*

During the period of the Committee's investigation, the original documents from the criminal proceedings were stored with the Norwegian Criminal Cases Review Commission. As part of its investigation, the Committee has visited the Commission on several occasions and reviewed these documents as well.

#### *The Lund Commission's archive*

The Committee requested access to the Lund Commission's archive, a request the Storting granted. The Committee has reviewed the Lund Commission's material in order to look for information about the methods used by POT in the case, among other things in minutes of conversations.

#### *Other archive material*

The Committee has been granted access to archive material at the Ministry of Justice. The Committee has also searched the archive of the former government-appointed Control Committee for Surveillance and Security Services with a view to ascertaining whether this committee had been informed of the Treholt case and, if so, which aspects of the case the committee was aware of. The latter search yielded no information with a bearing on this investigation.

### **3 Questioning and interviews**

The main rule in the Act relating to the Oversight of Intelligence, Surveillance and Security Services section 5 first paragraph is that all persons summoned to appear before the Committee are obliged to do so. All persons who are or have been in the employ of the administration are obliged to give evidence concerning all matters experienced in the course of their duties, cf. section 5 third paragraph. In principle, persons 'in the employ of the administration' comprises everyone who is or has been a 'public sector employee', cf. Norwegian Official Report NOU 1994:4 page 51. The obligation to appear and give evidence does not apply to current or former ministers, ministries, or their civil servants and senior officials, cf. the Act relating to the Oversight of Intelligence, Surveillance and Security Services section 6.

The Instructions for Oversight of Intelligence, Surveillance and Security Services section 9 first paragraph state that interviews with the administration's personnel shall take the form of an examination when the Committee finds it appropriate or when this is requested by the civil servant. In matters that may result in criticism of specific officers, interviews should normally take the form of an examination, cf. section 9 first paragraph last sentence. In cases where criticism of a specific officer is not a possible outcome and the person in question is therefore not entitled to assistance from an advocate or other representative and/or elected union representative, there will be no practical difference between an interview and an examination/formal questioning.

As part of its investigation, the Committee has formally questioned 17 persons who have been employed by POT, and one person who was an employee of the former Headquarters Defence Command Norway/Intelligence Headquarters (FO/E). The Committee has also carried out voluntary interviews with six persons who have been or are affiliated to the superior prosecuting authority or the civil service/political leadership of the ministries of justice, defence and foreign affairs.

The police expert has led the questioning/interviews and has also played an important role in their planning together with the Committee's secretariat. The Committee has also used its technical expert, particularly in connection with the preparations for and conducting of questioning of POT personnel with a technical background and expertise from the service.

The formal questioning and interviews were conducted on the EOS Committee's premises. In addition to the police expert, the Committee's chair Helga Hernes was present during the questioning. Henrik Magnusson, head of the Committee Secretariat, also participated in the questioning of some witnesses. Audio and video recordings were made of the questioning and interviews to allow the members of the Committee to familiarise themselves with the statements afterwards. All the persons interviewed or questioned consented to such audio and video recording. The questioning sessions were transmitted in real time to an adjoining room, where representatives of the Committee Secretariat were present. Summaries were written of all the statements.

The Norwegian National Security Authority (NSM) assisted the Committee in order to ensure compliance with the strict requirements that the Norwegian Security Act stipulates for the use of audio-visual equipment when dealing with classified information.

The questioning was carried out to approximately the same standards as those laid down for police questioning in the Criminal Procedure Act and the Prosecution Instructions. All persons summoned were informed about the Committee's oversight tasks and the scope of its oversight function, the remit for the investigation and the composition of the Committee, and about the purpose of the questioning/interview. They were also made aware of the obligation to give evidence (where applicable) to the Committee concerning all matters experienced in the course of their duties. The questioned persons were also informed that an obligatory statement cannot be used against any person or be produced in court without his or her consent in criminal proceedings against the person giving such statements.

#### **4 Expert assistance**

The Committee has obtained legal assistance in the form of a legal opinion as a supplement to the legal expertise that the Committee possesses in the Committee Secretariat and members of the Committee. As part of the evaluation of the lawfulness of the methods used by POT in this case, the Committee drew on the assistance of Professor Dr Juris Erling Johannes Husabø from the University of Bergen. Professor Husabø is a criminal law expert, and was also a member of the Methods Evaluation Committee, which, in 2009, submitted a report on the police's use of concealed coercive measures and the processing and protection of information in criminal cases.<sup>4</sup> At an early stage of the investigation, the Committee also consulted Professor Dr Juris Fredrik Sejersted of the University of Oslo, particularly in connection with constitutional matters.<sup>5</sup> The Committee has also consulted historians Knut Einar Eriksen and Trond Bergh, especially about the historical context.<sup>6</sup>

#### **5 Resources and organisation – the Committee's consideration of the case**

The Committee received an extra allocation from the Storting's Presidium to cover increased expenses relating to the investigation. The workload of the Chair of the Committee increased considerably during the investigation period. The members of the Committee have also worked more than usual. The Committee Secretariat has consisted of four legal advisers,

---

<sup>4</sup> Among other things, Professor Husabø wrote the report '*Grunnlova § 102 og bruk av enkelte tvangsmidler for å førebyggja eller avverja straffbare handlingar*' ('Article 102 of the Constitution of Norway and the use of coercive measures to prevent or avert crimes' – in Norwegian only), a report of 9 April 2009 submitted to the Methods Evaluation Committee, Norwegian Official Report NOU 2009: 15 'Skjult informasjon – åpen kontroll' ('Hidden information – open control' – in Norwegian only), Appendix 2 (pages 405–419) and a memo in connection with the revision of chapters 8 and 9 of the General Civil Penal Code included as Appendix 2 in Norwegian Official Report NOU 2003: 18 'Rikets sikkerhet' ('National security' – in Norwegian only).

<sup>5</sup> Among other things, Professor Sejersted has written the book '*Kontroll og konstitusjon*' ('Control and constitution' – in Norwegian only) (2002) and a number of articles about European law and constitutional law topics.

<sup>6</sup> Eriksen and Bergh have written a two-volume work on surveillance in Norway since 1914, '*Den hemmelige krigen – overvåking i Norge 1914–1997*' ('The secret war – surveillance in Norway 1914-1997' – in Norwegian only).



one legal higher executive officer for half the investigation period, one administrative adviser, and the head of the secretariat, who also holds a law degree. The secretariat has also used the services of a consultant who was available on an hourly basis to carry out administrative tasks and simple case processing.

The review of archives and preparations, and the questioning and interviews conducted, have been time-consuming. The Committee Secretariat has reviewed the material in the case, which was then submitted to the members of the committee in connection with the Committee's ordinary meetings. The Committee has also held five extraordinary meetings to consider this case.

## **IV THE SURVEILLANCE**

### **1 Introduction**

#### **1.1 General**

In the following, the Committee will provide an overview of the results of the investigation into POT's surveillance of Treholt prior to his arrest on 20 January 1984. The investigation has concentrated on the surveillance of Treholt by POT, or by other intelligence, surveillance and security services. The Committee has primarily investigated surveillance of Treholt while he was in Norway, and it has focused in particular on the surveillance arrangements in the flat in Oscars gate from late autumn 1982 until Treholt's arrest in January 1984.

In Chapter IV section 6.2, the Committee describes the information that the investigation has yielded about the *purpose* of the extensive surveillance of Treholt and his family's flat. The two most important purposes seem to have been to rationalise or facilitate undercover police work and to obtain evidence against Treholt.

#### **1.2 Sources**

The Committee has used different sources in connection with its investigation into the methods used by POT in this case. There is some written material from POT's observation case, as well as some material from the criminal case. For example, telephone surveillance of Treholt and his family is thoroughly documented in the observation case, while there are two search warrants in the criminal case. See sections 3 and 4 for details. The technical surveillance arrangements in the flat were to some extent documented in the observation case, and they were also mentioned to the Lund Commission by several witnesses, see section 2.

The questioning and interviews of witnesses the Committee has conducted in the case have been an important part of its investigation. As mentioned above, the Committee has formally questioned 18 persons and interviewed six persons.

The Committee has had access to photos that show technical equipment used by POT in connection with its surveillance of Treholt. The Committee has also had photos of Treholt's flat which witness statements indicate stem from searches conducted in connection with the planning and implementation of the technical surveillance arrangements, see section 4. None of the photos has been entered in records for the observation case or the criminal case, but have since been stored by PST. The photos have not been systemised or filed in a manner that shows what the purpose of the photos was, when they were taken or by whom.

These photos have been very useful during the questioning sessions.

#### **1.3 Limitations**

The investigation's remit is limited to surveillance carried out by *POT or other intelligence, surveillance and security services*. This limitation means that the Committee has not looked into the surveillance of Treholt while he was staying in New York. Nor has the Committee

investigated the use of any other methods abroad, for example undercover police work targeting Treholt in connection with his meetings with KGB agents.

The Committee has further limited the investigation to POT or other intelligence, surveillance and security services' alleged *use of illegal methods*. The Committee has not, therefore, investigated the undercover police work targeting Treholt in more detail. However, the investigation has shown that POT devoted considerable resources to undercover police work targeting Treholt in connection with searches and other special occurrences. Treholt was not subject to continuous undercover police work except for the surveillance arrangements in the flat.

## **2 Technical surveillance arrangements**

### **2.1 Introduction**

In the following, the Committee will present the information that the investigation has produced about the surveillance arrangements in Treholt's flat in Oscars gate 61.

In the Committee's opinion, the investigation has given good insight into the scope of the surveillance arrangements in the flat. However, it cannot be completely ruled out that there may also have been other surveillance points or other surveillance equipment in the flat that the Committee's investigation has not found.

The sources for the Committee's findings concerning the technical surveillance arrangements are, firstly, some written material that exists in the surveillance case about the planning and implementation of the surveillance operation, see section 2.3 for more details. Moreover, four persons affiliated to the technical unit, four undercover officers and three detectives who worked on the Treholt case were formally questioned.

### **2.2 POT's flat – the surveillance room**

In the autumn of 1982, POT bought a flat on the second floor of Oscars gate 61, diagonally above Treholt's flat. POT started using the flat in November 1982. A memo in the observation case documents that, well before this purchase, as early as in August 1982, POT had cleared with the Ministry of Justice that it might be necessary to purchase a flat, see Chapter V.

Immediately after it had taken over the flat, POT established a surveillance room in the flat, called 'Post 12'. POT officers staffed this surveillance room in a round-the-clock rota with two persons on duty at all times. The officers had experience from POT's undercover unit and worked in two teams of six persons. The first undercover team worked from the surveillance room was established in November/December 1982 until May/June 1983. The second undercover team took over in May/June and staffed the surveillance room until the arrest in January 1984.

The Committee has had access to five photos from POT's surveillance room in the flat diagonally above Treholt's flat. One of these photos is included as an appendix to this report. The photos of the surveillance room show a desk with technical surveillance equipment, including four monitors and various covert audio surveillance equipment. All five photos were taken from the same angle and show the same equipment. The photos were probably taken during the period from July to October 1983, but the exact time is unknown.

### **2.3 About the surveillance operation**

#### **2.3.1 Introduction**

Documents from the observation case and the questioning of witnesses show that POT received assistance from a cooperating foreign intelligence service in planning the surveillance arrangements in Treholt's flat and in the installation of equipment. The Committee cannot identify the cooperating foreign intelligence service in question, since this

information is still deemed to be classified. A total of twelve documents in the observation case are letters from this service to POT about the technical surveillance arrangements. The letters contain everything from discussions in writing about the planning of the surveillance to correspondence of a more technical nature about problems with the surveillance equipment that was used.

Except for these documents, the Committee has not found any documentation of collaboration on surveillance arrangements in the flat, including which decisions were made during the process and who was involved in the operation. Other than the correspondence with the foreign intelligence service, very little seems to have been put into writing about this operation.

Several witnesses have confirmed to the Committee that the cooperating foreign intelligence service was involved in the technical surveillance arrangements in the flat.

### *2.3.2 The planning*

Both the witness statements and the documents in the observation case show that POT received assistance from the foreign intelligence service in the form of equipment and a technical team. The written correspondence between the services started in early August 1982 on the basis of a meeting between representatives of the two services. At that time, the services did not know whether Treholt would buy a flat or a detached house. The advice from abroad was therefore of a general nature at that time. Already in early August 1982, the two services agreed that a technician would be sent to reconnoitre the premises as soon as Treholt had purchased a home. The technician was to advise POT and return to his/her home country to make further plans for the operation.

The correspondence about the operation shows that POT's investigation leadership was involved, at least to begin with. However, subsequent correspondence is of a more technical nature, and the Committee's impression is that, in time, personnel from the technical unit took over much of the contact with the foreign intelligence service, since this communication concerned the technical details of the operation. This tallies with the statement made by a witness from the investigation leadership, who said that he was not aware of the details of the operation. Moreover, neither the questioning nor the documents in the observation case have given any clear answers as to how the operation was planned. The Committee's general impression is that only a few persons in POT appear to have known about the planning.

As mentioned above, POT initiated cooperation with the cooperating foreign intelligence service in early August 1982. Information in a memo could indicate that this service already had certain ideas about how Treholt could be kept under surveillance at home in Norway.

On 12 November 1982, the service notified POT that it was willing to carry out the operation.

### *2.3.3 Installation and maintenance of the equipment*

On the basis of the documents in the observation case and the statements of several witnesses, it seems clear that the equipment used in connection with the covert audio surveillance and video surveillance of Treholt's flat was partly POT's own equipment and partly borrowed from the foreign intelligence service.

The documents in the observation case say little about how the technical equipment was installed and who carried out the installation. The Committee's findings on this point are therefore based on the statements of certain witnesses. POT seems to have installed its own equipment, while the foreign intelligence service assisted in the installation of the equipment that it supplied. For example, the Committee has been told that it was the cooperating intelligence service that drilled a hole through the floor from the undercover flat to Treholt's flat in connection with the installation of a video camera. Personnel from POT's technical unit

were present during the drilling. One witness stated that POT had been involved in advance of the drilling in connection with the calculation of drilling angles, the thickness of beams and other preparations.

The witness statements indicate that representatives of the foreign intelligence service were in Oslo to install equipment in the flat on at least two occasions.

It has been impossible for the Commission to ascertain exactly when the surveillance equipment was installed or how long the service took to establish the listening post in POT's flat. However, there are two documents from the observation case in particular that provide certain clues.

A letter of 6 September 1983 from the foreign intelligence service shows that the microphone in Treholt's kitchen had at the time been 'in continuous service for some eight months'. This statement suggests that the microphone must have been in operation since the end of December 1982. Another letter, dated 30 November 1982, states that technical equipment and a technical adviser were due to arrive in Oslo by plane on 2 December 1982. It is clear from the letter that the duration of the stay was estimated to be two weeks. The letter did not describe the equipment in question, but it nonetheless indicates that the service started its installation of equipment in the undercover flat in early December at the latest. It is nonetheless possible that some of the equipment arrived at an earlier or later time.

One of the undercover officers who worked in the surveillance room is quite certain that he was on duty at Christmas 1982. On this basis, he estimated that the work in the surveillance room started around the turn of the month November/December 1982. The witness stated that not all the equipment was in place when the undercover officers started their duty rota, but that different parts of the equipment were installed during the start-up phase. Another witness has stated that he picked up foreign technicians at Fornebu airport on 20 November 1982 and that their installation work was completed on 20 December 1982. This information stems from the witness's diary for 1982-1983.

The Committee's impression from the witness statements and some documents in the observation case is that POT was responsible for maintaining the surveillance equipment once it had been installed. In connection with technical problems with parts of the equipment, new technical devices for POT's use were sent on a few occasions.

#### *2.3.4 The duration of the surveillance*

On the basis of the witness statements and documents from the observation case, the Committee's opinion is that the probable course of events is that an initial reconnaissance of Treholt's flat was carried out in November 1982 together with representatives of the foreign intelligence service, and that some of the equipment for audio surveillance of the kitchen may have been tested then. The drilling work probably started sometime after 2 December and was completed by 20 December 1982. The microphone in the kitchen was probably also installed during this period, while the audio surveillance of the bedroom seems to have been active from January 1983, see sections 2.4.2 and 2.4.4.

Based on the above, the Commission finds that the surveillance of Treholt's flat had a total duration of approx. one year and two months. Since the individual surveillance points seem to have been installed and put into operation at different times, the duration of the different surveillance points will vary somewhat. However, the Commission assumes that most of the equipment was in place by Christmas 1982, and the variations in duration are therefore small. The surveillance of the bedroom probably lasted for almost exactly one year.

## 2.4 Covert audio surveillance

### 2.4.1 *Introduction*

The correspondence between the services shows that audio surveillance equipment was installed in Treholt's flat. Two different types of audio surveillance technology were used, and there were at least three audio surveillance points. The photos from the surveillance room also show that the undercover officers listened to more than one audio surveillance point. The undercover officers in the surveillance room had a so-called 'monitoring' function in the audio surveillance, which means that they listened in on the events in the flat while they were taking place.

### 2.4.2 *The kitchen*

Several documents in the observation case mention an audio surveillance point that was installed in Treholt's flat. This was a microphone borrowed from the foreign intelligence service. It is not possible to ascertain from the documents which room this microphone was placed in. However, most of the witnesses questioned by the Committee have stated that a microphone was installed in the kitchen and that the sound quality from conversations in the kitchen was good.

The correspondence with the foreign intelligence service shows that the microphone was replaced at the beginning of September 1983 because the batteries were poor.

Several witnesses have stated that audio surveillance of the kitchen using another type of technology was attempted before the microphone was installed. The device used was said to be located in a room in POT's flat that had a view of Treholt's kitchen. This attempt allegedly lasted for a limited period, but the surveillance device was soon replaced by a microphone that produced better sound quality.

### 2.4.3 *The library*

The Committee has found three documents that show that POT had Treholt's library<sup>7</sup> under audio surveillance.

Firstly, a memo from the surveillance room written on 29 March 1983 shows that the undercover officers could hear what was being said when Treholt sat at his desk in this room. Secondly, a letter from July 1983 shows that it was also possible to make sound recordings from the room that they made video recordings from. In this letter, the foreign intelligence service requested a video tape that showed the quality of the audio and video recording in the room. It wrote:

'Could this piece of film be one where the light is as bright as possible and includes parallel sound recording?' (Underlined by the Committee)

The observation case also includes minutes of a political meeting that Treholt held in his home on 29 December 1983. Information available to the Committee indicates that a sound recording was probably made of this meeting, and that the recording was made in the library.

Several witnesses have stated that the library was under audio surveillance. Some undercover officers have stated that they could hear sound from a room that was either the library or the corner living room, but they could not say exactly where the microphone was located. Moreover, one of the employees from the technical unit told the Lund Commission that there was a microphone in Treholt's study as well as video surveillance.

The Committee's investigation has not yielded sufficient information to say exactly what technology was used in the surveillance of the library, i.e. whether the audio surveillance

---

<sup>7</sup> By library is meant the room at the end of the flat, nearest POT's flat on the floor above. Treholt used this room as a study.

took place using the camera equipment or whether a separate microphone was placed in the room.

#### *2.4.4 The bedroom*

Several documents in the observation case show that POT bugged a room in Treholt's flat using a modified telephone supplied by the foreign intelligence service. The telephone functioned as a microphone which picked up sound in the room when it was not being used as a phone. The memo from the surveillance room of 29 March 1983 also confirms that Treholt's bedroom was under audio surveillance.

Witnesses who worked for the technical unit have told the Committee that the modified telephone with a microphone was placed in the bedroom. Some of the undercover officers also confirm that they could hear sound from the bedroom. The sound quality is said to have been good, and sound recording was possible.

The documents do not state when the audio surveillance equipment was installed in the bedroom, but one of the witnesses stated that he/she picked up the modified telephone in January 1983. This suggests that the audio surveillance equipment in the bedroom was in operation for about a year, from January 1983 to January 1984.

#### *2.4.5 Sound recordings*

The only document from the observation case that clearly shows that sound recording was possible from the covert audio surveillance of the flat is a letter of July 1983 in which the foreign intelligence service asks POT to send a video tape with 'parallel sound recording'.

Several undercover officers have stated that sound from the flat was recorded using Tandberg tape recorders. This has been confirmed by detectives who received the sound recordings from the flat at the POT Headquarters. The photos from the surveillance room also show various equipment that several witnesses have stated was used to record sound.

The witness statements from undercover officers indicate that they were given little or no instructions about how work in the surveillance room was to be carried out. Several of them stated that they were not told where the microphones were located in the flat. Their task was said to be to listen, write down any interesting events in the log and record any interesting events. The Committee has been unable to map the procedures for the audio surveillance, for example the extent to which activities of an intimate nature were listened in on.

Several undercover officers were of the opinion that the sound recording function was switched on when there were conversations in the flat that could become interesting, while other witnesses believe that the sound recording function was switched on as long as there was activity in the flat. The Committee has not found any written material that can show to what extent sound was recorded.

## 2.5 Video surveillance

### *2.5.1 Introduction*

Two documents from the observation case show that Treholt's flat was under video surveillance.<sup>8</sup> A letter from the foreign intelligence service uses the term 'CCTV coverage', and it asks POT to send a 'video tape' showing the equipment in use. In addition, POT's written reply to the request shows that video surveillance was carried out of Treholt's flat, see section 2.5.2. There are no other written indications in the observation case to show that the flat was under video surveillance.

---

<sup>8</sup> In the following, the term 'video surveillance' is used regardless of whether or not it was possible to make recordings.

The five photos from the surveillance room found in PST's archive shows that POT used at least four monitors for the surveillance. The quality of the images is not good enough for it to be possible to reach a clear conclusion, based on what the monitors show, about the location of the cameras. Several witnesses, particularly undercover officers and technicians, were asked during questioning what equipment these photos show and what the equipment was used for. The questioning has not provided clear answers about what equipment was used for what. However, in connection with the Committee's investigation and questioning, the photos have provided a useful basis for understanding the scope of the video surveillance.

The witness statements from undercover officers and technicians have been an important source of information about the location and number of cameras. Several witnesses have confirmed to the Committee that video surveillance equipment was installed in the flat. Several former employees of POT stated the same to the Lund Commission.

In the following, the Committee will describe the four video cameras that the Committee's investigation has provided information about.

### 2.5.2 *The library*

POT's reply to the request for a videotape shows that one of the rooms in Treholt's flat was under video surveillance. The document says nothing about which room this is, but the context shows that it must be a living room or similar. The recording mentioned in the letter is said to be of Treholt's wife being interviewed by a magazine.

A number of witnesses have stated that the service had a camera drilled from the living room of POT's flat down to Treholt's library. Minutes that the Committee has had access to show that several witnesses made similar statements to the Lund Commission. On this basis, the Committee concludes with certainty that Treholt's library was definitely under video surveillance.

The witnesses have stated that the camera emerged in the cornice in the library and that the hole was about the size of a pinhead. The camera was drilled diagonally down through the wall and joists and beams from POT's flat to Treholt's flat. The actual camera equipment was located in a box in the living room of POT's flat. All the witnesses stated that the video equipment was highly advanced, that it was borrowed from the foreign intelligence service and that the drilling operation was very time-consuming.

Several of the witnesses have emphasised that the camera was not in continuous use, and many of them point out that the equipment's battery capacity was poor. Several undercover officers state that the camera was only turned on when they heard Treholt enter the library. The undercover officers could then watch on one of the monitors in the surveillance room.

The Committee has attempted to clarify the camera's *range* and the *image quality*. The memo from the surveillance room of 29 March 1983 gives a number of indications of which part of the room was covered by the camera and of the image quality. For example, the memo states that the undercover officers could see Treholt lying on a sofa reading a newspaper. They could also see the doorway leading to the corner living room/neighbouring room. The memo also shows that the image quality must have been good enough for the undercover officers to be able to see small hand gestures and identify the clothing worn by the people in the room.

Several witnesses have mentioned in their statements that the camera had some sort of wide-angle function which made about half the room visible. Other witnesses believe that there was no wide-angle lens, because it was originally only wished to see the desk and what Treholt was doing there. Many witnesses also point out that the images were 'foggy', blurred and of a generally poor quality. At the same time, several of them mention that it was

possible to see movements in the room and whether, for example, Treholt had the briefcase in front of him on the desk, but that it was impossible to see which documents he was handling. One witness illustrated this by saying that it was possible to see whether Treholt was reading a newspaper, but not which articles he read. Several witnesses mention that the investigation leadership was disappointed with the quality of the video surveillance and that it did not yield much information.

On the basis of the above-mentioned memo, the Committee finds that the camera covered at least the desk, doorway and sofa in the library. The quality was probably good enough for the undercover officers to monitor movements and events in the room, but probably not good enough to see details.

The Committee has tried to clarify whether or not *recording was possible* in connection with the video surveillance of Treholt's flat. The correspondence with the foreign intelligence service in July and August 1983 shows that recording from the library was possible at that time. When requested to send a 15-minute recording 'on video tape showing some occasion in your current coverage', POT sent a recording made during the day on 24 August 1983. This is the only written material that the Committee has found showing that recording was possible in connection with this camera.

Most of the witnesses stated that they were not aware of video recordings being made from the flat. However, two undercover officers stated that recording was possible. One of them was very clear that recordings from the library were only made on rare occasions, and he estimated that he may have made such recordings three or four times during the nine months he worked in the surveillance room. The other undercover police officer thought that he had handed in video recordings from the surveillance room to the POT Headquarters between five and ten times during his period of duty in the surveillance room. In addition, one of the detectives stated that he could remember having seen a photo or recording from Treholt's library once. Since he was certain that he had never been in POT's flat, this image must have been stored and displayed at the POT Headquarters – either as a still image or a video recording.

That recordings from the library were possible is also supported by a statement made by a central member of POT's leadership to the Lund Commission. He said that, as far as he could recall, there had been camera surveillance with recording possibilities, but without sound. The person in question also stated that he could remember having seen a recording of Treholt taking out various documents in his study.

On this basis, the Commission's opinion is that video recordings were made from the library, but only on rare occasions.

### 2.5.3 *The kitchen*

The memo from the surveillance room of 29 March 1983 confirms that POT had a view of the kitchen. The memo describes Treholt sitting at the kitchen table filling in some documents. POT could probably have seen this by observing it from the room in its own flat directly opposite Treholt's kitchen, or the observation could be based on information from covert audio surveillance. This memo therefore gives no clear grounds for concluding that POT had the kitchen under video surveillance.

Several witnesses have stated that a camera was mounted in POT's flat that pointed diagonally across the back yard, at an angle pointing down towards Treholt's kitchen window. The images from this camera were transmitted to a monitor in the surveillance room so that the undercover officers could monitor any activity in the kitchen while at the same time keeping an eye on other audio and video surveillance equipment.



The camera had a view of the kitchen window from the outside, so that the quality of the service's view depended on interior and exterior light conditions. Witnesses have stated that it was possible to see whether persons were sitting around the kitchen table and that, generally, the image quality was reasonably good.

All the witnesses who have mentioned this camera have stated that it was not possible to make recordings of the video surveillance of the kitchen.

#### *2.5.4 The stairway*

Several witnesses have stated that there was a camera in the stairway aimed at Treholt's front door, so that it was possible to see who came and went. Two witnesses who were employed by the technical unit stated that this camera had been drilled from the wall in the surveillance room in POT's flat vertically down towards the stairway. The camera emerged through a small hole in the wall much like the camera in the library. One witness stated that the foreign intelligence service assisted POT with the installation of this surveillance equipment, and that the equipment in question was advanced technical equipment that the Norwegian service did not have. All the witnesses who have mentioned this camera have stated that it was not possible to make recordings of the video surveillance of the stairway.

The Committee finds that POT had installed video surveillance equipment in the stairway, but that no recordings were made from this surveillance.

The Committee has also asked several witnesses whether audio surveillance equipment was installed in the stairway. The basis for this question was that photos from the surveillance room show that one set of headphones was labelled 'STAIRS'. No witnesses have been able to confirm or remember audio surveillance of the stairway.

#### *2.5.5 The main entrance/car park*

Several witnesses, including undercover officers and personnel from the technical unit, have stated that POT installed a camera to keep the main entrance and Treholt's parking space under video surveillance. An employee from the technical unit stated that he installed this camera in one of the windows of POT's flat that faced the entrance to the block of flats. The camera was pointed diagonally down towards the front door and car park, so that the undercover officers would know whether Treholt's car was parked outside or not, and see who came and went. All the witnesses have stated that it was not possible to make recordings from this camera.

There seems to be little doubt that POT had the front door of Oscars gate 61 and the car park outside under video surveillance, but that no recordings were made of this.

## 2.6 More about the work in the surveillance room

### *2.6.1 Log*

The Committee has found no written material, instructions or similar to show how work in the surveillance room was organised.

The undercover officers who worked in the surveillance room have stated that they kept a log or list of activities in the flat. The log was written continuously, and times and comments were entered if anything was said or happened in the flat that was of interest to POT. The purpose of the log seems to have been to facilitate the work of the detectives who were to write a more detailed log about the telephone surveillance and covert audio surveillance. The photos from the surveillance room also show undercover officers entering events in such a list/log. Like the sound recordings, the log was handed in to the POT Headquarters after each shift in the surveillance room.

### 2.6.2 *Memos*

None of the undercover officers questioned have been able to verify that it was common practice to write memos from the surveillance room. However, several witnesses have stated that generally speaking, many memos were written in the Treholt case, and that superior personnel either followed up these memos or took note of them.

The Committee has only found one written memo summarising events and conversations that took place in Treholt's flat on a given day. This memo was written on 29 March 1983 by two undercover officers who worked in the surveillance room, and it is based on things that they *heard* using covert audio surveillance and *observed* by means of video surveillance inside the flat. The memo is not listed in the records of the observation case, but was found in a box of miscellaneous documents connected to the Treholt case. The document was written as an internal memo and was submitted to a detective, a head of department, the second-in-command in POT and the head of the investigation for their assessment of how important the information was. Notations on the memo show that memos had also previously been written from the surveillance room.

In the Committee's opinion, the memo of March 1983 serves as documentation that, at least on some occasions, internal work memos were written about conversations and events that took place in Treholt's flat, based on information obtained by means of the technical surveillance arrangements. However, the extent to which such memos were written in addition to the continuously kept log is uncertain.

## 2.7 Storage of recordings and written material

### 2.7.1 *Sound and video recordings*

The Committee has not found any sound or video recordings from Treholt's flat. PST has informed the Committee that no such recordings exist today.

Many witnesses have stated that the sound recordings from the flat were destroyed on a continuous basis. The tapes were demagnetised in order to be reused, in line with common telephone tapping practice at the time. Before the tapes were demagnetised, a detective at the POT Headquarters listened to them and wrote down any interesting information.

On this basis, the Committee therefore finds that the sound recordings from the flat were only stored until any interesting information that they contained had been written down.

The witness statements have not answered the question of how video recordings from the library were handled. None of the detectives can remember having received such tapes.

### 2.7.2 *Written material from the surveillance room*

Apart from the single memo of 29 March 1983, the Committee has not found any written material from the surveillance room – neither logs nor memos/working notes.

No witnesses have been able to provide clear answers as to how the logs and memos, if any, were stored, or if they were destroyed at some point in time. However, one witness has stated that sometime after the criminal proceedings were concluded, he was given the task of tidying up the case material and destroying material that was not important to the criminal case or the observation case. In that connection, he reviewed a large amount of hand-written notes, and the witness could not rule out the possibility that the material he destroyed could have included logs from the surveillance room. The purpose of destroying material was to tidy up the case paperwork so that it would be easier to find documents in the case later. The witness doubted that any typed memos were destroyed in this connection.

The Committee has not been able to determine with certainty how logs and memos from the surveillance room were stored, but all the evidence indicates that they were destroyed at some time or other.

## 2.8 Summary of the technical surveillance arrangements

The Committee's investigation has uncovered the three audio surveillance points in Treholt's flat: in the kitchen, in the bedroom and in the library. The sound was transmitted from these listening devices to the surveillance room in POT's flat, where the undercover officers listened when there was activity in the rooms. Recordings were made of the audio surveillance, at least when something happened that the undercover officers considered to be of interest.

The investigation has also found that there were four surveillance cameras in and in connection with the flat: one camera was located in a public area inside the block of flats (the stairway), one camera was located inside Treholt's flat (the library), and two cameras were located in POT's flat (covering the kitchen and the main entrance/car park). The latter two cameras both showed what the undercover officers could have seen through continuous observation from the windows in POT's flat.

Images from three of the four surveillance cameras were continuously transmitted to the monitors in the surveillance room. The Committee has no information that video recording equipment was connected to these cameras. The fourth camera showed the library. This camera did have video recording possibilities, but was not in continuous operation.

## **3 Telephone surveillance**

### 3.1 Introduction

During the investigation of Treholt, POT obtained court orders authorising telephone surveillance many times. The Committee has reviewed POT's petitions for telephone surveillance and the decisions of Oslo Court of Examination and Summary Jurisdiction.

The Committee will only consider the telephone surveillance carried out while Treholt was in Norway. Treholt's telephone was also tapped while he was staying in New York, but the Committee has not looked into this in more detail.

Since POT obtained the court's permission for telephone surveillance, the Committee will not go into details relating to basis, duration etc. However, in order to shed light on the case and because the scope of the surveillance of Treholt is a matter of public interest, the Committee will in the following provide an overview of the permissions for telephone surveillance granted in this case by the Court of Examination and Summary Jurisdiction.

### 3.2 Overview of court permissions for telephone surveillance

- 23 June 1978: Permission for surveillance of two telephone numbers granted for a period of six months
- 2 March 1982: Permission for surveillance of one telephone number granted for a period of 14 days
- 21 May 1982: Permission for surveillance of one telephone number granted for a period of 14 days
- 21 June 1982: Permission for surveillance of two telephone numbers granted until 1 October 1982
- 1 July 1982: Permission for surveillance of one telephone number granted until 1 October 1982
- 6 September 1982: Permission for surveillance of one telephone number granted until 31 December 1982

- 24 September 1982: Permission for surveillance of two telephone numbers granted until 31 December 1982
- 5 November 1982: Permission for surveillance of one telephone number granted for a period of six months
- 29 December 1982: Permission for surveillance of two telephone numbers granted until 5 May 1983
- 27 April 1983: Permission for surveillance of three telephone numbers granted for a period of six months
- 27 October 1983: Permission for surveillance of four telephone numbers granted until 27 April 1984.

### 3.3 Comments

Together with the documentation in the observation case, the decision logs show that POT had Treholt under continuous telephone surveillance from June 1982 until his arrest in January 1984. In addition, POT conducted telephone surveillance for brief periods during 1978 and during spring 1982 when Treholt was in Norway.

The family had no fixed abode during the period from Treholt's return from New York until they settled in Oscars gate 61 in autumn 1982. Therefore, POT tapped two phone numbers during this period: one at his in-laws' home and one at a hotel that Treholt stayed at for a brief period of time. Telephones linked to Treholt's place of work were tapped during a period in 1978, a brief period in spring 1982, and from October 1983 until the arrest.

The decision logs show that POT obtained the court's permission for continued telephone surveillance of Treholt's in-laws after Treholt had moved to Oscars gate. This means that POT had his in-laws' telephone lines under continuous surveillance from June 1982 until the arrest in January 1984, despite the fact that for much of this period Treholt did not live there.

In connection with the questioning of witnesses, the Committee asked the witnesses whether they knew of any telephone surveillance having taken place without the court's permission in this case. All the witnesses replied that they did not know of any such occurrences. Most of them also emphasised that, generally speaking, great care was taken during that period to obtain the court's permission for any telephone surveillance. On this basis the Committee finds that POT did not carry out any telephone surveillance without the court's permission in the Treholt case.

The investigation has shown that POT had good documentation of matters relating to telephone surveillance in this case. Both POT's petitions and the decisions of the court have been filed in the observation case.

### 3.4 Oversight

The Committee's investigation has shown that the undercover officers in the surveillance room had a oversight function in the audio surveillance of Treholt's flat, i.e. they listened in on the conversations while they were taking place. The undercover officers have stated that the surveillance room personnel listened in on telephone conversations, but that these were also transmitted to the POT Headquarters, where they were taped in the ordinary way. The purpose of the oversight by undercover officers was allegedly to enable POT to detect interesting information as it came to light instead of waiting for the tapes to be played back at the headquarters.

## **4 Secret searches**

### 4.1 Introduction

In the following, the Committee will explain what information the investigation has yielded about POT's secret searches of Treholt's flat.

Two written search warrants exist in the criminal case, with pertaining seizure reports from two secret searches carried out on 17 May and 22 August 1983, respectively. In addition, some of the material in the case suggests that further secret searches were carried out of Treholt's flat. It has been confirmed through the questioning of several witnesses that POT also entered Treholt's flat on several other occasions, see section 4.3. In the following, the Committee will also include these entries under the term secret searches.

#### 4.2 Secret searches on 17 May and 22 August 1983

In autumn 2010, allegations were made that the so-called 'cash evidence' in the criminal case against Treholt had been fabricated and that the secret searches during which the money was photographed did not take place on the dates shown by the documents in the case. While the Committee has investigated the methods used by POT, the Norwegian Criminal Cases Review Commission has examined these allegations with a view to deciding whether there are grounds for reopening the criminal case.

The Committee's investigation has *not* aimed to determine the probability of the two secret searches not having taken place on the dates stated in the documents in the criminal case. It has not been necessary to the Committee's investigation to examine these allegations in more detail, since there is no doubt that POT searched Treholt's flat on several occasions, see section 4.3. However, the Committee would like to comment that it has not found any information to suggest that the two searches did not take place on the above-mentioned dates.

#### 4.3 Reconnaissance, installation and maintenance of equipment etc.

It is not explicitly stated in any of the documents in the observation case that POT entered Treholt's flat. However, several of the letters exchanged between POT and the cooperating foreign intelligence service are based on the presumption that POT must have entered the flat several times to install and/or maintain the technical surveillance equipment. In this way, some of the correspondence between the services shows that POT entered the flat a number of times.

Moreover, several photos that the Committee has had access to show that POT entered the flat at different times. Among other things, there is a folder of photos of every room in Treholt's flat, as well as several individual photos of various rooms in the flat. Neither the folder nor the other photos are dated or in any other way organised in such a way that it can be said for certain when they were taken. However, the furniture and other aspects of the photos make it possible to conclude that several of the photos were taken at different times.

Several witnesses confirm that POT entered Treholt's flat on a number of occasions in addition to the two secret searches that have so far been known. The witness statements indicate that the searches were carried out for different purposes. However, most of them seem to be related to the installation or maintenance of the technical equipment. Some witnesses state that the service entered the flat for reconnaissance purposes on a couple of occasions in connection with the planning of the technical surveillance arrangements. Other witnesses have described specific episodes where POT entered the flat to install surveillance equipment or maintain equipment that had already been installed. Two witnesses have stated that, on one occasion, probably in March 1983, POT photographed Treholt's diary.

The witness statements indicate that several of the searches may have had more than one purpose, for example to inspect a listening device and to check whether there were any interesting documents lying around that could provide information about Treholt's travel plans in the time ahead.

Based on the witness statements, it seems clear that the searches were mainly carried out by personnel from the technical unit. None of the undercover officers that the Committee has

questioned have ever been inside Treholt's flat. Personnel from the cooperating foreign intelligence service seem to have entered the flat on at least two occasions: once for reconnaissance purposes before the technical equipment was installed and once in connection with drilling into Treholt's library. The Committee's impression is that the assistance received from the foreign intelligence service was mostly given without personnel from this service entering Treholt's flat.

None of the witnesses have been able to provide a clear answer to the question of how many times POT has been inside the flat. Information about such events was not widely circulated, and any knowledge therefore depends on the person in question having been aware of the search. One witness estimated that POT probably entered the flat no more than once a month. One witness has stated that he believes he entered the flat between five and eight times, another witness estimates that he entered the flat five or six times.

On the basis of the witness statements, the Committee estimates that POT must have entered Treholt's flat on at least seven occasions in addition to the searches carried out on 17 May and 22 August 1983.

#### 4.4 Copying of key

All the witnesses questioned by the Committee have been asked whether they know of any other intrusive measures taken in relation to Treholt. Most of the witnesses have denied this.

However, several witnesses have stated that on one occasion, probably on 14 August 1983, two POT officers entered Treholt's flat to make a copy of the key to the flat. The background to this operation is said to have been that POT discovered through the telephone surveillance that the key to the front door was in the hall of the flat on the day in question. Treholt and his family were not in the flat at the time. The purpose of the copying was to make it easier for POT to enter the flat on later occasions.

The Committee has not found any written material to document this event, neither in the observation case nor elsewhere. The witness statements are unambiguous on this point, and the Committee therefore finds that POT copied the key to Treholt's flat.

### **5 Other intelligence, surveillance or security services**

The Committee has not seen any written documentation, neither in the observation case nor elsewhere, to suggest that other intelligence, surveillance or security services were involved in the surveillance of Treholt.

Several witnesses were asked whether FO/E (Headquarters Defence Command Norway/Intelligence Headquarters) was involved in the surveillance arrangement, either with technical equipment or personnel. The Committee has also questioned the second-in-command of FO/E during the Treholt case. This witness told the Committee that POT had used him as a discussion partner, particularly during the introductory phase of the case when POT was still taking a broad approach in order to identify the possible successor of Gunvor Galtung Haavik. The witness had thus received some information from POT while the case was in progress, but emphasised that he had nothing to do with the surveillance of Treholt.

The Committee cannot see that either FO/E or other intelligence, surveillance or security services were involved in the surveillance of Treholt.

### **6 POT's consideration of the legal basis for and purpose of the surveillance**

#### 6.1 POT's consideration of the legal basis for the surveillance

In its investigation, the Committee has endeavoured to map whether POT considered the lawfulness of the methods used. The written material contains no evidence of such consideration having taken place. However, two decisions were recorded concerning the

searches that took place on 17 May and 22 August 1983. The search warrant of 15 May 1983 is signed by the head of POT and states that the legal basis for the search is section 223 first paragraph of the Criminal Procedure Act in force at the time, cf. section 221 first paragraph.<sup>9</sup> The search warrant of 22 August is identical.

There is no written material pertaining to the legal basis for covert audio surveillance, video surveillance or the other searches.

The Committee has asked several witnesses if they know whether or not the legal basis for the surveillance was considered by POT. None of the witnesses have said that they were involved in discussions about the legal basis for the surveillance. A central member of POT's leadership has told the Committee that the conditions for claiming that this was a situation of necessity were never discussed, but that the existence of such a situation was mentioned. No evidence has been found of any particular awareness of the issue of legal authority.

It is the Committee's impression that the operating personnel believed that the legal aspects of the methods used had been considered by the leadership.

It has been impossible to map the assessments made by POT's senior leadership during the period in question, as two of the persons are deceased and one has been unable to make a statement to the Committee for medical reasons. It is therefore not possible to provide a final answer to the question of to what extent POT evaluated the legal basis for its surveillance measures.

The Committee's investigation has shown that POT informed the Director General of Public Prosecutions as well as the Ministry of Justice of the case, see Chapter V. The written material from the contact between POT and the superior authority contains no information about the legal basis for the surveillance.

#### 6.2 POT's consideration of the purpose of the surveillance

There is little written information about the background to individual surveillance measures. The two above-mentioned search warrants state that the searches are 'expected to lead to the discovery of signs of the criminal offence'.

POT employees, both detectives and technical personnel, have stated that the purpose of the surveillance measures was to obtain evidence so that Treholt could be arrested. One member of POT's leadership has stated in reference to the camera in the library that the purpose was to see what Treholt did before and after his meetings with the KGB and what he did with the documents.

The Committee has asked several witnesses what the purpose of the surveillance of Treholt was. Several undercover officers and one technician share the opinion that the purpose of the surveillance was to 'keep tabs on Treholt'. The undercover officers point out that POT was to be 'one step ahead of Treholt' by obtaining an overview of the family's routines, Treholt's upcoming journeys and meetings with Soviet officials. One undercover police officer described the surveillance of the flat as an extension of the undercover police work outside.

---

<sup>9</sup> The Criminal Procedure Act of 1887 first section reads as follows: 'without the Consent of the Person in Question, Searches can only take Place pursuant to Court Orders that must state the Reason, Purpose and Object of the Search'. Section 221 first paragraph of the Act reads as follows: 'when a Person who with Just Cause is suspected of a Criminal Offence that is Punishable by more than a Fine, his Home and other Rooms and his Person may be searched when there is Reason to believe that the Search will lead to his Arrest or to the Detection of Signs of the Criminal Offence or Seizures'.

Based on the above, two related objectives emerge as particularly important. Firstly, the surveillance may have been initiated in order to rationalise or facilitate the undercover police work. Another purpose of the surveillance may have been to obtain evidence against Treholt.

The investigation has also endeavoured to clarify whether alternatives to the surveillance of Treholt in his flat, or less intrusive ways of carrying out the surveillance, were considered. The Committee's investigation indicates that this was not the case.

## **V THE SUPERIOR AUTHORITY'S INVOLVEMENT IN THE CASE AND THE METHODS USED**

### **1 Introduction**

#### **1.1 Remit and method**

Part of the Committee's remit was concerned with 'who knew about the methods used and who authorised them.' This involves, among other things, issues to do with the superior authority's involvement in the case, relating to the methods used by POT in relation to Treholt.<sup>10</sup>

In order to shed light on this part of the remit, the Committee has looked for documents in POT's observation case and criminal case that concern the involvement of the Ministry and the Director General of Public Prosecutions in the case. The Committee has also been in contact with the Ministry of Justice and the Office of the Director General of Public Prosecutions regarding access to material in the archives, if any, and such access has been granted. However, the investigation has shown that there is very little written material relating to this matter.

The Committee has also interviewed persons that were affiliated to the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Defence and the Office of the Director General of Public Prosecutions during the period in question. Some POT employees have also known about the matter. Several of the key persons involved in the Treholt case at the superior authority and in POT are deceased or have been unable to make statements to the Committee for medical reasons. Hence, only a handful of witnesses had first-hand knowledge of this aspect of the case.

The Committee underlines that any knowledge about and approval of the methods used on the part of the superior authority cannot constitute a legally valid basis for initiating surveillance measures that, pursuant to the principle of legality, require a statutory basis, or that are expressly forbidden by law.

#### **1.2 The division of responsibility between the Ministry of Justice and the Director General of Public Prosecutions during the case – the regulatory situation**

One important feature of the Norwegian police system is the combination of police authority and prosecuting authority. This system was established by the Criminal Procedure Act of 1887.

It followed from the Police Act of 1936 section 2 that the police were 'subordinate to the ministry the King decides', i.e. the Ministry of Justice. The Criminal Procedure Act of 1887 section 73 second paragraph stated that the Director General of Public Prosecutions was charged with the 'Overriding Management of the Prosecuting Authority'. This meant that the Ministry was responsible for and managed the overall activities of the police, while the Director General of Public Prosecutions was responsible for and managed the prosecuting authority, including the investigation of criminal offences.<sup>11</sup> Section 73 second paragraph also

---

<sup>10</sup> The scope of the investigation does thus not cover other ministries' involvement, if any, in the case.

<sup>11</sup> See for example Salomonsen (1925) p. 301, where the following is stated in the discussion of section 266: 'It is the prosecuting authority that heads the investigation and – with the exception of



stated that ‘Only the King can issue general Rules and Binding Orders regarding the Execution of his Office’. The mutual independence of the Director General of Public Prosecutions and the Ministry was thus established. This division of responsibility between the Ministry and the Director General of Public Prosecutions is often known as the two-track system.

Whether or not Treholt was under *investigation* is therefore critical to a clarification of whether POT’s activities fell within the Ministry or the Director General of Public Prosecutions’ area of responsibility and management. However, there seems to have been little focus on what the concept of investigation actually implies until recent years.<sup>12</sup> There are therefore no clear answers as to which track observation case was on as it progressed, and consequently who had overall responsibility for the methods used by POT at any time.

Regardless of which track the case was on, the Surveillance Instructions of 1977 section 3 letter a) imposed on POT a duty to ‘keep the Ministry of Justice informed of all matters with a bearing on national security’.

As far as the Committee knows, no form of written procedures or guidelines for cooperation between POT and the Director General of Public Prosecutions existed at the time.

## **2 Results of the Committee’s investigation**

### **2.1 The Director General of Public Prosecutions**

#### **2.1.1 *Written documentation***

In its investigation, the Committee has only found two documents that concern the Director General of Public Prosecutions’ involvement in the case during the period leading up to Treholt’s arrest on 20 January 1984.

One document is a memo from POT dated 11 January 1984, which was sent to the Director General of Public Prosecutions, the Ministry of Foreign Affairs and the Ministry of Justice. This memo lists information that can and cannot be made public in connection with the pending arrest of Treholt.

The other document is a letter from the head of POT at the time to the Storting’s Standing Committee on Scrutiny dated 5 May 1989. The letter is in response to a list of questions received from the committee, and summarises some points of POT’s investigation. Among other things, the letter states that the Director General of Public Prosecutions participated in a meeting between the management of the Ministry of Justice and POT in May 1983. One of the things that were allegedly discussed in this meeting was whether there was a sufficient basis for arresting Treholt.

The investigation has shown that there is little or no documentation that can provide any information about the Director General of Public Prosecutions’ involvement in the case prior to Treholt’s arrest. In this connection, the Committee notes that the Office of the Director General of Public Prosecutions, in a letter to the Committee dated 17 February 2011, stated that archives and records had been reviewed without results.

#### **2.1.2 *Witness statements***

The Committee has asked several witnesses when the Director General of Public Prosecutions was first informed about the case and, if applicable, about the methods used. Questions were also asked about what, if anything, the Director General of Public Prosecutions was informed about, including whether he took part in the decision-making processes in the case. The answers to these questions have differed.

---

section 268 and 269 – alone decides what information shall be obtained and what other steps are to be taken.’

<sup>12</sup> See e.g. Rieber-Mohn (1996) and the Director General of Public Prosecutions’ circular no 3 1999.

The witness statements indicate that the Director General of Public Prosecutions was more involved in the case than is shown by the written documentation. This suggests that information about the case was largely based on oral communication, which has been confirmed by several witnesses.

None of the witnesses had direct knowledge of when the Director General of Public Prosecutions was first informed about the case. However, several witnesses have stated when they assumed that the Director General of Public Prosecutions was informed. The answers to this question have differed by more than four years: While some of the witnesses believed that the Director General of Public Prosecutions was informed while Treholt was staying in New York, other witnesses were of the opinion that he was only informed about the case in connection with the first secret search, i.e. in May 1983. On this point, the Committee would like to remark that none of the witnesses had first-hand knowledge of the matter.

Several of the witnesses have stated that the Director General of Public Prosecutions attended several meetings with the Ministry and POT relating to the case. The meetings were allegedly held at the Ministry's premises. However, it has not been established when these meetings were held, except for the meeting allegedly held in May 1983, see above. The Director General of Public Prosecutions' participation in this meeting has been confirmed by a witness from the Ministry of Justice and a witness from POT's leadership, both of whom attended the meeting. A witness from POT's leadership has told the Committee that during the period from May to September 1983, the Director General of Public Prosecutions received detailed information about the progress in the case.

None of the witnesses knew whether POT and the Director General of Public Prosecutions had independent contact concerning the case. However, a witness from POT's leadership has stated that, generally speaking, POT considered it important to keep the Director General of Public Prosecutions informed about cases from an early stage.

A witness from the Ministry of Justice told the Committee that the Director General of Public Prosecutions was perceived as having overriding responsibility for the case as early as in the time before Treholt went to New York. However, the witness had no opinion about how detailed the Director General of Public Prosecutions' knowledge was and what his function had been in the case. No other witnesses have been able to say anything specific on this point.

Several witnesses have referred to the fact that the Director General of Public Prosecutions was involved in deciding when Treholt should be arrested. Among other things, this was allegedly discussed in the meeting in the Ministry of Justice in May 1983 and in a meeting in autumn 1983.

### *2.1.3 Summary*

Although there is much to suggest that the Director General of Public Prosecutions was involved in the case from an early stage, it can at least be concluded that he attended meetings about the case from May 1983. In this context, the Committee finds it probable that the Director General of Public Prosecutions was involved in deciding when Treholt should be arrested. The Committee does not know what information POT gave the Director General of Public Prosecutions. The Committee would also like to remark that even if the Director General of Public Prosecutions was informed about the case from an early stage, this does not necessarily mean that he was aware of the methods used in relation to Treholt, including the arrangement for technical surveillance of Treholt's flat, either beforehand, on implementation or in the course of their use.

## 2.2 The Ministry of Justice

### *2.2.1 Written documentation*

Through its investigation, the Committee has found several documents that concern the Ministry of Justice's involvement in the case in the time before Treholt's arrest on 20 January 1984.

The documentation shows that the Ministry was informed about the matter at an early stage.

The above-mentioned letter of 5 May 1989 from the head of POT at the time to the Storting's Standing Committee on Scrutiny states that, in March 1978, Minister of Justice Valle 'was informed of the investigative measures initiated in relation to the person who the investigation was targeting at the time – including the court's decision regarding telephone surveillance and oversight of correspondence'. However, it is specified that '[t]he investigation ... at the time targeted another person than TREHOLT', and that it was uncertain whether Treholt had been mentioned as a potential suspect.

The letter also refers to the fact that Minister of Justice Cappelen was informed about 'the investigation of TREHOLT on 8 August 1980'.

A memo of 10 October 1980 states that Minister of Justice Berrefjord and the Ministry's secretary general were informed about the operation in New York, including 'the background to and development of the case, its present status and the measures that had been taken in the USA'.

A memo dated 26 October 1981 states that Minister of Justice Røkke was informed about the case as early as on 20 October 1981. It also states that on 24 October 1981, Prime Minister Willoch and Minister of Foreign Affairs Stray were informed about 'the case complex "the dancers", the present status of the case and the practical problems that exist in relation to further investigation in Oslo (Ministry of Foreign Affairs) and abroad'.

There are also a number of documents that concern contact between the Ministry of Justice and POT during the years 1982 and 1983. Several of the documents contain brief summaries of topics discussed in the meetings.

A memo dated 2 April 1982 shows that on 24 March 1982, the Ministry of Justice, represented by the Ministry's secretary general, was informed of recent developments relating to the operation in New York. The memo states that he was shown the material that the FBI had copied in Treholt's flat, and that he consented to the tapping of Treholt's telephone at the UN delegation and to POT stationing one or two officers in New York for the remainder of Treholt's period of service in the USA. It is also stated that the secretary general was to inform the minister of justice of this. Another memo, dated 1 April 1982, states that the Ministry's secretary general had stated in a telephone conversation that the minister of justice had no objections to 'the technical surveillance arrangements that were being planned in the case'.<sup>13</sup>

Moreover, a memo dated 5 August 1982 shows that a person from POT's leadership met with the minister of justice and the Ministry's secretary general on 3 August 1982 in order to inform them about the most recent information that the POT Headquarters had received from a cooperating foreign intelligence service. The memo states that there was agreement in the meeting that this information was final confirmation of the suspicion that Treholt was an agent for the KGB. The memo goes on to say:

---

<sup>13</sup> This probably has to do with the matters that the Ministry's secretary general was informed of on 24 March 1982, i.e. the operation in New York.

'There was ... agreement that the new information would not cause any changes to be made in the POT Headquarters' investigation arrangement in the case.

On account of the highly sensitive nature of this information, it was also decided that, at the present time and pending further discussions, the information would not be passed on. Prime Minister Willoch was mentioned in particular in this connection.

The minister of justice also emphasised that the case should be given top priority and that, if necessary, she expected the POT Headquarters to neglect other tasks should its total resources prove insufficient. She also specified that funds must be spent as required without considering the budget. In this context, [the person from POT leadership] mentioned that technical equipment might be required and that a situation would probably arise in which it would be necessary to rent/buy one or more flats for use as permanent observation posts. The minister of justice conformed that her statement also covered that.

The minister of justice wanted to be personally informed about the status of the case when [the person from POT leadership] has returned from the USA.'

A memo dated 16 September 1982 states that, on 7 September 1982, the minister of justice was told about the information that had been 'obtained in connection with [Treholt's] most recent stay in New York'.

A memo dated 28 January 1983 concerning new information about Treholt received from a cooperating foreign intelligence service carries a written notation stating that the Ministry's secretary general was informed about the content of the memo on 21 February 1983. A notation on another memo states that information that the FBI provided POT with on 21 June 1982 was also passed on to the secretary general at the same time.

An undated memo lists the minister of justice, the Ministry's secretary general and the state secretary as participants in a meeting with two persons from POT's leadership on 4 May 1983. The purpose of the meeting is said to have been to inform them about developments in the case, and it is stated that information was communicated about 'the investigation that has taken place in Norway and abroad' and about 'the POT Headquarters' investigative arrangements for the time ahead'. The memo continues as follows:

'The minister of justice takes a very serious view of the case, and she repeated that the case must be given top priority. She specified again that the funds must be spent as required without considering the budget. ...

As a result of the "FOXTROT" case, the POT Headquarters have so far spent an unreasonably large amount on overtime and technical equipment, and there is a high probability that the overtime budget will be significantly overrun. The Ministry of Justice replied that when this happens it will make sure that more funds are allocated'.

The above-mentioned documentation stems from POT's observation case.

The Ministry of Justice has sent the Committee a hand-written memo that contains a point-by-point review of the contact between the Ministry and POT during the period 1979 to 1983. The memo, which is undated and unsigned, has been stored in the Ministry's historical archive. This memo confirms several of the above-mentioned meetings between the Ministry and POT, and also describes some meetings/contact that took place in addition to this.

The memo states that Minister of Justice Cappelen was presented with '[s]ome more information about the basis for the general suspicion' on 15 October 1979, and that there was a meeting/contact between POT and Cappelen and the Ministry's secretary general on 13 February 1980.

It goes on to say:

'According to [memos from a POT employee], there was also contact with [the Ministry's secretary general] about the case on the following occasions:

1982	–	approx. 27 June
"	–	30 July
1983	–	21 April
	–	5 August
	–	mid-August, and regularly from then on.'

### 2.2.2 *Witness statements*

The Committee has questioned several witnesses about the Ministry's involvement in the case.

Several witnesses have stated that contact between POT and the Ministry was more extensive than the documented meetings indicates, particularly the contact between POT and the Ministry's secretary general. However, these witnesses have found it difficult to specify the nature of this contact.

One person from POT's leadership has told the Committee that he had continuous contact with the Ministry's secretary general throughout the case.<sup>14</sup> He stated that the Ministry's secretary general was kept fully informed about the methods used as well as the developments in the case. He also said that the methods were used as required, and that the legal aspects were never questioned. It was also his opinion that the methods used were known further up in the system, all the way up to the senior level in the Ministry, and that they were accepted.

Witnesses from the Ministry's political leadership has confirmed to the Committee that the contact between the Ministry of Justice and POT took place via the Ministry's secretary general, and that the minister was to be informed should anything of particular interest emerge during these meetings/conversations.

The minister of justice at the time told the Committee that she was not informed of the purpose of the purchase of the flat, other than that POT wanted to keep a closer eye on what Treholt was doing. She said that she had no knowledge of any technical installations in the flat, other than that telephone surveillance had been carried out.

### 2.2.3 *Summary*

The Committee finds that there was continuous contact between POT and the Ministry of Justice about the case, and that the Ministry's secretary general was POT's primary contact. Since the sources are incomplete, the Committee does not know what information POT passed on to the Ministry about the methods used, and whether any form of consent to the use of these methods was given. However, there is a lot of evidence to suggest that the Ministry's secretary general was kept up-to-date about what POT was doing.

Anyway, it is clear that the Ministry was aware of the purchase of the flat and of the fact that 'technical equipment' was being used during the surveillance, see above.

## **VI THE LEGAL BASIS FOR THE METHODS USED**

### **1 Introduction**

#### 1.1 Overview

The preceding chapters described the results of the investigation into the methods used by POT and the involvement of the superior authority. An important part of the Committee's

---

<sup>14</sup> The Ministry's secretary general is also said to have been POT's contact person for other cases.

remit in this case was to decide whether POT had a legal basis for initiating and using the methods described.

As part of its evaluation of the legal basis, the Committee has obtained a legal opinion from Professor Dr Juris Erling Johannes Husabø. The legal opinion is enclosed as Appendix 1 to this report. Section 2 below gives an overview of the regulations in force at the time of the surveillance. The main features and conclusions of Professor Husabø's legal opinion are described in Section 3.

## 1.2 Challenges

Drawing conclusions about the lawfulness of surveillance that took place almost 30 years ago involves several methodological challenges. Firstly, it is more difficult with the passage of time to determine what actually happened. Secondly, there are challenges involved in carrying out a legal evaluation of the methods used more than a quarter of a century after the events. The legal basis must be evaluated on the basis of the prevailing law at the time the methods were used. The Committee has approached this task while keeping in mind the challenges involved in such legal 'time travel'. As far as possible, the Committee has endeavoured to evaluate the methods used from the perspective of that time. This means that the evaluation of the legal basis will have to be based on sources from before and during the surveillance period. Retrospective discussions of the prevailing law can also be taken into consideration when evaluating the legal basis.

## 2 The prevailing law at the time of the surveillance

### 2.1 Introduction

This chapter describes the regulatory situation during the period when the surveillance took place. The Police Act of 1936, which was in force at the time, contained no specific provisions relating to POT, but it served as the legal basis for the Surveillance Instructions of 1977, issued by the Ministry of Justice, which were also in force at the time. Section 2 of the Surveillance Instructions of 1977 stated that POT was charged with 'preventing and counteracting all crimes insofar as they [could] entail a risk to national security'. The instructions also stipulated that POT was to 'obtain information about persons ... who can be suspected of preparing or carrying out acts as mentioned in section 2'. The Surveillance Instructions of 1977 contained provisions on how relevant information 'obtained' could be stored and used, but said nothing about how it could be obtained.

A classified set of internal instructions of 2 October 1978 existed for oversight of correspondence and telephone surveillance. These instructions were subsequently amended on 26 June 1980, 14 October 1982 and 28 November 1983. Among other things, the instructions contained provisions about who in POT could petition the courts for the use of coercive measures, about keeping records of court decisions and about the procedure for petitioning for renewal. There was also classified circular no 8 1979 to POT concerning the basis for establishing and reporting surveillance cases, classified circular no 3 1978 to POT concerning archive arrangements for POT, and classified instructions of 27 November 1970 relating to POT's archive system. All of these documents were signed by the head of POT.

### 2.2 Surveillance methods

It is a fundamental guarantee of due process of law that the authorities cannot encroach on citizens' legal rights without statutory authority. Norwegian law has long recognised the requirement for statutory authority as an important part of the 'protection of the individual against the state'.<sup>15</sup> The Lund Report states that '[m]ethods that are of a coercive nature, such as searches and seizures, or that encroach on the legal rights of citizens, such as oversight of correspondence or telephone surveillance, require statutory authority pursuant to the principle of legality'.<sup>16</sup>

---

<sup>15</sup> See Eckhoff (1963), p. 232.

<sup>16</sup> See the Lund Report page 124 section 8.1.4.1.

The rules that applied to covert audio surveillance, video surveillance and secret searches during the period in question, and the question of whether the measures were of such a nature that statutory authority was required, are discussed below.

#### *Covert audio surveillance*

At the time of the surveillance of Treholt, POT had no statutory authority for covert audio surveillance. Pursuant to the General Civil Penal Code section 145a, covert audio surveillance was a criminal offence, which means that legal use of this method would require statutory authority. Covert audio surveillance is also a measure of a nature that falls under the scope of the principle of legality, and this is another reason why statutory authority was necessary, cf. the Lund Report.<sup>17</sup> The Lund Commission described covert audio surveillance as a 'clear encroachment on the legal rights of citizens'.<sup>18</sup> The Committee agrees with this assessment.

#### *Video surveillance of the flat and the stairway*

There was no statutory authority for video surveillance of Treholt's library and the front door in the stairway. Covert video surveillance did not fall under the scope of a penal provision in the same way that covert audio surveillance did. The Lund Commission wrote in its report that '[c]overt ... filming ... of persons in their home ... must be assumed to require statutory authority'.<sup>19</sup> In 1968, Bratholm wrote that 'video surveillance is considerably more questionable when it is covert, particularly when it takes place in areas where one has a reasonable claim to privacy'.<sup>20</sup> It is the Committee's opinion that the video surveillance was of a nature that required statutory authority.

#### *Video surveillance outside the flat*

There was also no statutory authority for the video surveillance carried out by means of the two cameras covering the main entrance/car park. The cameras did not show anything other than what a policeman could have observed with the naked eye. This may indicate that this video surveillance can be regarded as a form of undercover police work. On the other hand, it can be argued that the use of technical aids and the resultant constant observation suggest that the surveillance fell under the scope of what Eckhoff describes as '[s]ystematic spying with a view to mapping people's personal lives', which requires statutory authority.<sup>21</sup> Hence, there is some uncertainty as to whether this part of the surveillance required statutory authority at the time when the surveillance took place.

#### *Secret searches*

Pursuant to section 221 of the Criminal Procedure Act of 1887 in force at the time, a person's 'Home and other Rooms' could be searched when the person in question could with 'Just Cause' be suspected of a criminal offence that was punishable by more than a fine. If the suspect him/herself did not consent, a court order had to be obtained. An exception from this rule is made in the case of treason, so that no court order was required for seizures and searches, but any seizure had to be 'reported to the court as soon as possible', cf. section 19 of the Act concerning legal procedure for treason cases (repealed on 1 January 1986). Treholt was under suspicion of treason, and a court order was therefore not required for a search of his home.

The Criminal Procedure Act of 1887 also stipulated other rules for how searches were to be carried out. Firstly, the search had to be 'Attended by at least one Witness', cf. section 224. Another requirement was that, on request, the decision to search had to be read out or

---

<sup>17</sup> Ibid page 125 section 8.1.4.2.

<sup>18</sup> I.c.

<sup>19</sup> Ibid page 127 section 8.1.4.5.

<sup>20</sup> See Bratholm (1968), p. 297.

<sup>21</sup> See Eckhoff (1963), p. 44.

explained to the person in question before the search was carried out, cf. section 225 first paragraph. Finally, the Act stipulated that when searches are made 'he, or if he is absent, one of his Household Members or a Neighbour, must be summoned, if this can be done without Delay', cf. section 225 second paragraph. The Act concerning legal procedure in treason cases did not provide for exceptions from these requirements in the Criminal Procedure Act of 1887. Whether or not the searches carried out by POT were illegal has been a subject of discussion, among other things in legal literature<sup>22</sup> and in the Lund Report.<sup>23</sup>

Pursuant to the provisions of the Criminal Procedure Act of 1884, the requirements of the Act had to be met in the case of every search, i.e. for each of the at least nine times that POT entered the Treholt family's flat.

The legislators considered searches of private homes to be an encroachment that required statutory authority. It must be concluded that the type of repeated entries (searches) of the home that took place in the Treholt case also falls under the scope of the principle of legality. The absence of such authority means that, in principle, such searches are covered by the General Civil Penal code section 116 concerning illegal searches and section 147 concerning burglary.

### *Summary*

With the possible exception of the video surveillance of Treholt's kitchen and main entrance/car park, all the surveillance measures were of a nature that required statutory authority.

In the absence of such authority, the measures must in principle be deemed to have been unlawful and, in part, also punishable. The next question is whether the measures may have been warranted by considerations of necessity, and this matter is discussed in the following section. Necessity means not only that any criminal acts will not be punishable, but also that such acts will have necessary and sufficient authorisation in accordance with the principle of legality.<sup>24</sup>

## **3 Necessity as a legal basis**

### **3.1 External legal opinion**

Professor Husabø has examined whether necessity could provide a legal basis for the surveillance of Treholt. The Committee has held several working meetings with Professor Husabø and has been in continuous contact with him. The facts of the case on which the legal opinion is based are largely based on the Committee's investigation.

### **3.2 A brief description of the legal opinion and the Committee's assessment of it**

In his legal opinion, Professor Husabø considers whether necessity could provide a legal basis for the methods that POT did not have statutory authority to use, i.e. secret searches, covert audio surveillance and video surveillance.

In his legal opinion, he takes as his starting point the necessity provision in the General Civil Penal Code of 1902 section 47, which reads as follows

'No person may be punished for any act that he has committed in order to save someone's person or property from an otherwise unavoidable danger when the circumstances justified him in regarding this danger as particularly significant in relation to the damage that might be caused by his act.'

---

<sup>22</sup> See Andenæs (1988), Fleischer (1992) and Andenæs (1990a).

<sup>23</sup> The Lund Report section 9.4.4.

<sup>24</sup> See Andenæs (1990b) page 140 with further references.



In section 4, Professor Husabø addresses the problem of whether or not public interests can be protected by the necessity provision, and in his opinion 'there are good grounds [for] considering that the General Civil Penal Code section 47 provides direct legal authority for acts of necessity to protect all types of interests protected by the legal system, including public interests'.

Professor Husabø then discusses the four conditions that the General Civil Penal Code stipulates for necessity to apply, in brief the requirements concerning danger, purpose, alternatives and proportionality. All the conditions must be met in order for necessity to apply. Professor Husabø believes that the first three conditions for POT's use of the above-mentioned methods were satisfied when considered separately. As regards the proportionality condition, he concludes that it was not met, neither for each method considered separately nor overall.

The Committee supports Professor Husabø's conclusion that necessity did not constitute a legal basis for the methods used by POT. The main points and conclusions of the legal opinion are reviewed below.

### 3.3 The main points and conclusions of the legal opinion

In section 5 of his legal opinion, Professor Husabø writes the following about the danger condition:

'In relation to the Treholt case, the danger condition means that a specific and imminent risk that Treholt could disclose state secrets to representatives of other states (cf. the General Civil Penal Code section 90) must have existed at the time when the police methods in question were used. There can be little doubt about this. Treholt had access to a great deal of highly classified information while attending the Norwegian Defence University College, and his subsequent position in the Ministry of Foreign Affairs gave him access to information that it was in the nation's interest to keep secret. It was also known that Treholt had previously had an unusual amount of personal contact with Soviet diplomats, and he was specifically suspected of planning new meetings with Soviet intelligence agents. This suspicion became particularly concrete after October 1982, when POT "cracked the code" in the diary found by the FBI during a search in the USA.

It must also be safe to assume that the danger was present throughout the period from December 1982 to January 1984. Even though his stay at the Norwegian Defence University College made contact with Soviet or other agents more difficult, Treholt had so much personal knowledge of classified information that, provided that the suspicion that he was a spy was correct, there was a risk that he could subsequently pass on information that could harm Norway's interests. POT's observation of Treholt's meeting with Gennadij Titov in Helsinki on 14 May 1983 made it even clearer that he represented a risk to national security.'

After having reviewed possible purposes of the surveillance arrangements in the case, Professor Husabø concludes that the purpose of obtaining evidence of espionage that had already taken place did not satisfy the necessity provision's requirement that the act be carried out in order to save someone's person or property. At the same time, he believes there is reason to assume that averting was another purpose of the surveillance, whereby this condition would be satisfied. Professor Husabø writes in section 6 of his legal opinion:

'In this light, it was probably an important purpose of the surveillance measures against the Treholt family to prevent future espionage by Treholt by uncovering what he was doing and having him convicted and thereby "rendered harmless" as an agent. In my opinion, this purpose meets the requirement of section 47 that the act must be done "to save" the interests at risk from the danger in question.'

To put it briefly, the alternatives requirement means that it must have been impossible to avert the national security risk that Treholt represented by reasonable means other than the

surveillance arrangement. In section 7 of his legal opinion, Professor Husabø summarises his evaluation of this condition as follows:

'In summary, it must be safe to assume that separately, and particularly when seen in conjunction with each other, the secret searches, covert audio surveillance and video surveillance (in the library) had a predictable additional effect in relation to the goal of preventing any further espionage activities by Treholt. It is difficult to quantify this additional effect, as that would require a more thorough analysis of the extent to which some of the same results could have been achieved by more extensive use of other and legal methods, for example undercover police work. However, it must be safe to assume that the three police methods in combination enabled POT to carry out its task in a considerably more effective manner than it could otherwise have done.'

The proportionality requirement entails that, based on the situation at the time when the surveillance was carried out and what could be achieved through the surveillance measures, the consideration of averting a risk to national security must have been seen as 'particularly significant' when weighed against the consideration of respect for the Treholt family's privacy. In sections 8.2 and 8.2, Professor Husabø discusses considerations of national security on the one hand and respect for privacy on the other in more detail. He also weighs the specific interests against each other in relation to each of the methods that POT made use of.

As regards secret searches, Professor Husabø writes the following in section 8.4.1 of his legal opinion:

'The proportionality condition is made particularly problematic by the fact that POT carried out a number of searches over a prolonged period of time, and in reality had access to the flat at any time. This meant that the measure was less of an emergency and exceptional nature, and more like systematic surveillance of the family.'

Professor Husabø reaches the following conclusion about covert audio surveillance in section 8.4.2:

'Even though the opinions about whether covert audio surveillance should be permitted have changed with time and the method is now permitted under certain circumstances, participants in the Norwegian debate have – with certain nuances – stuck to the fundamental principle that encroachment on integrity is a very serious matter.

When evaluating the degree of invasion of privacy in the Treholt case, the question of when the undercover officers actually listened to the recordings or what they heard is not decisive. The important thing is that, by means of the three microphones and audio transmission to the "surveillance room", POT *could* hear nearly everything that was said and done in the Treholt family's home. Outsiders thus had unique access to relations between family members, their plans, thoughts and feelings, including the most intimate aspects of their personal lives. Moreover, the audio surveillance took place over a period of more than one year. Hence, there is no doubt that the covert audio surveillance was an extreme intrusion on the privacy of Treholt, his wife and son.

As in the case of secret searches, it is difficult to rule out as a matter of principle that necessity *could* have constituted a legal basis for covert audio surveillance before the police obtained statutory authority for such activities. But in the Treholt case, as mentioned above, it was not a matter of preventing a specific and imminent crime, but more a question of putting a stop to Treholt's role as an agent on a general basis. Moreover, the specific covert audio surveillance was very extensive, both in terms of time and space, and it affected innocent members of his family as much as the suspect himself. In my opinion, this must lead to the conclusion that the balance of interests in favour of national security was insufficient, and that the covert audio surveillance in the Treholt case clearly went beyond the scope of the necessity provision.'

It is also concluded that the proportionality requirement was not met with respect to the video surveillance, see section 8.4.3:

'Even though the library was not the primary arena for the family's private life, the video surveillance in the Treholt case *could* also have resulted in family members being observed in highly private situations. In practice, the degree of invasion of privacy was probably somewhat reduced by the fact that the camera only recorded events of apparent interest to POT and by the fact that the image quality was relatively poor. On the other hand, this method had significantly less effect in relation to the purpose of exposing and stopping Treholt's activities than the searches and the covert audio surveillance. In my opinion, it must therefore be concluded that the video surveillance did not meet the necessity provision's proportionality requirement either.

In the final section of his legal opinion (8.4.4), Professor Husabø evaluates the overall use of methods in relation to Treholt and his family:

'In previous discussions of the methods used in the Treholt case, the different methods that have been known (secret searches and covert audio surveillance) have largely been discussed separately, just as they have in the above. However, the EOS Committee's investigation has clearly shown that the methods that we have discussed here were part of a greater whole in which legal and (except with necessity as a legal basis) illegal methods went hand in hand. By means of undercover police work and video surveillance outside the house and in the stairway, POT obtained a good overview of who entered and left Treholt's flat. The many searches provided POT with detailed information about what the flat contained in terms of documents and other objects, while the secret searches in combination with the telephone surveillance and video surveillance of the library provided access to what went on in the home and what the family and others were talking about. Together, the methods used provided an almost complete overview of and access to the private life of the Treholt family over a period of just over one year.

Hence, the crucial element in deciding whether POT acted within the framework of the legal system is not what one might think about each individual method, but whether the *overall* use of police methods for which there was no other statutory authority met the conditions for necessity. To put it more precisely, the question is whether the risk to national security posed by Treholt, and what could be achieved to protect this interest by also using secret searches, covert audio surveillance and video surveillance, was "particularly significant" to the extent that it was much more important than the total invasion of privacy suffered by Treholt and his family as a result of these methods.

The above discussion of the individual methods already indicates that the answer must be negative. But when the methods used are seen in conjunction with each other, some of the overriding grounds also become clearer. By using a combination of secret searches, covert audio surveillance and video surveillance, POT had much more powerful means of surveillance of the Treholt family at its disposal than legal methods would have provided (typically undercover police work, telephone surveillance and overt searches). This is in clear contravention of the legislator's intentions as expressed in the provisions of the Criminal Procedure Act section 145a concerning searches of private homes and the prohibition on sound recordings.'

## **VII THE COMMITTEE'S CONCLUSIONS**

### **The lawfulness of the methods used**

In the Committee's investigation, POT's use of methods has been evaluated on the basis of the legal situation at the time when the surveillance of Treholt took place. The political security situation was still marked by the Cold War's tension between East and West. POT had barely finished work on the Galtung Haavik case when it became aware of the fact that the KGB probably had another important agent in the Norwegian civil service. POT was tasked with uncovering actions that could threaten or harm national security, and therefore initiated an extensive effort to identify the person in question. The work of getting to the bottom of this matter was a priority task for POT for many years.

The Committee has emphasised the fact that the political security situation during this period was very different from today. The historical context can contribute to understanding and explaining the methods used by POT, but can nonetheless not constitute a legal basis for the surveillance measures that were taken in relation to Treholt and his family. The surveillance constituted a major invasion of their privacy.

In the Committee's opinion, POT lacked statutory authority, including grounds of necessity, for the covert audio surveillance, some of the video surveillance and the repeated secret searches.

### **POT's internal handling and evaluation of the surveillance**

The Committee has not found any evidence of the existence of written procedures or guidelines for POT officers relating to how the surveillance was to be carried out. The Committee's investigation has shown that much of the material from the surveillance was probably deleted or destroyed. POT seems to have enforced the 'need to know' principle strictly, also within the organisation, both during and after the work on this case. As far as the Committee can see, this means that there were relatively few persons in POT who had any detailed knowledge about the surveillance and that few people had access to the material that was obtained.

The Committee finds no evidence of any legal evaluations of whether or not POT had a legal basis for carrying out the surveillance measures. The Committee's impression is that it was the generally accepted view, within and outside the service, that POT was expected to do what was necessary in order to safeguard national security. The lawfulness of the methods used should nonetheless have been evaluated beforehand, and these evaluations should have been put in writing, particularly for documentation reasons.

### **POT's involvement of the superior authority**

The investigation has shown that POT informed the political leadership about its suspicions against Treholt and about the fact that Treholt was under surveillance at an early stage and on a regular basis, and that the Director General of Public Prosecutions was also informed, at least about some of the surveillance, prior to the arrest. The Committee has no reason to believe that POT tried to conceal the surveillance of Treholt from the superior authority. As a result of the lack of written contact between POT and the superior authority, it has proved difficult for the Committee to determine whether the superior authority was informed about the technical surveillance arrangements in the flat, and, if it was informed, how detailed the information was.

An assessment of the superior authority's role and responsibility in the case falls outside the scope of the Committee's oversight function. Nor is it the Committee's task to assess what responsibility the superior authority may have had for the fact that the intrusive surveillance actually took place and whether it could and should have stopped it.

### **The development of the regulatory framework, the service and the oversight**

The legislation stipulates a far clearer framework for the tasks of and methods used by PST today than it did at the time when Treholt was under surveillance. The methods vary depending on which 'track' the service pursues. The Police Act section 17 d stipulates the conditions for use of coercive measures for preventive purposes in certain types of cases – the preventive track. The Criminal Procedure Act section IV sets out the conditions for the use of coercive measures in ordinary investigation cases – the investigation track, and the use of coercive measures to avert serious crime – the averting measures track.

The Criminal Procedure Act section 216 m concerning covert audio surveillance was added to chapter 16 b of the Act by Act No 87 of 17 June 2005. Today, section 216 m provides an exhaustive description of the criminal offences that can justify covert audio surveillance as part of an ordinary investigation. The right to use covert audio surveillance for preventive purposes pursuant to the Police Act section 17 d was suspended in 2009 by instructions issued by the Ministry of Justice because covert audio surveillance of private homes without a criminal offence having taken place was deemed to be in violation of section 102 of the Norwegian Constitution. The right to use secret searches was added to section 200 a of the Act by Act No 82 of 3 December 1999. Among other things, the Criminal Procedure Act section 222 d permits the use of covert audio surveillance and secret searches as averting measures when there are reasonable grounds for assuming that someone will commit acts of a certain kind. There is still no legal authority for covert video surveillance of private homes. The Criminal Procedure Act section 202 a, added by Act No 5 of 15 March 1991, currently only authorises concealed video surveillance of a public place as mentioned in section 40 of the Personal Data Act.

As a result of the allegations of illegal surveillance of Norwegian citizens made in the 1990s, oversight of the secret services, including what was then POT, was tightened.

The current PST is subject to oversight by many bodies, including the Storting, the Ministry of Justice and the superior prosecuting authority represented by the Director General of Public Prosecutions and the public prosecutors. The organisation's approach to legal matters concerning the methods used and other aspects of its activities is very different today. The legal expertise is much more clearly rooted in the organisation, and evaluations and decisions concerning the use of methods in relation to individuals is documented to a much greater extent.

Today, the EOS Committee monitors PST's activities regularly. The Committee regularly reviews all methods used by PST both in its prevention cases and in its investigation cases. Among other things, the Committee checks whether the court has provided a satisfactory and correct basis for its decisions concerning the use of coercive measures, and that the coercive measures have been used in accordance with the court permission.

### **Necessity as a legal basis**

The principle of legality is still a barrier to any use of methods without statutory authority. The fact that PST's use of methods is regulated by law to a much greater extent than before leaves less room for necessity as a basis for intervention. It is the Committee's general opinion that there would have to be very strong grounds for using necessity to extend and supplement the existing legal basis for the use of intrusive methods. The fact that the different methods are now enshrined in law is in itself a manifestation of the legislators having weighed considerations of prevention and solving of criminal offences against considerations relating to, among other things, individual due process protection and protection of privacy. It is not for anyone other than the legislators to extend the legal basis for such methods.

However, the legislators have established necessity as a safety valve under the law. It cannot be ruled out that circumstances may arise in the future that would require the use of new methods to be considered in accordance with the conditions for necessity. A general discussion of the use of necessity falls outside the scope of the Committee's investigation. The Committee will limit itself to pointing out the importance of documenting any necessity evaluations and acts of necessity, so that their lawfulness can be subject to subsequent control.

### **Concluding remarks**

Professor Husabø concludes his legal opinion with some overall reflections on the methods used in the Treholt case:

'The fact that POT thus went beyond the "statutory framework" on several points simultaneously and over such a long period of time as in this case, means that it would be very unfortunate in a separation-of-powers perspective to accept these measures as being justified by necessity. Such a wide justification of interventions by the executive power could adversely affect public confidence in the Storting as the body that sets the framework for the powers of the police. It would also weaken the control function that is normally vested in the courts in relation to the use of coercive measures (including telephone surveillance), and which is, in a human rights perspective, extremely important if such measures are to be sufficiently legitimate. The acceptance of this type of very extensive long-term surveillance of a family's privacy, without clear statutory authority and without the type of democratic control represented by the courts, comes into conflict with "the ground rules of the legal system".'

In the Committee's opinion, this is an accurate description of the violation of the rule of law principle that POT's use of methods entailed. It is a fundamental characteristic of a state under the rule of law that the authorities' actions do not go beyond their allocated methods in relation to individuals.

It is the Committee's opinion that societal developments, the legal regulation of PST's activities and use of methods, the strengthening of protection of privacy and human rights under Norwegian law, the level of awareness within the organisation, together with the increased and improved oversight, have considerably reduced the probability that extensive illegal surveillance will take place again – although it cannot be guaranteed that a secret service will limit itself to using legal methods even in a democratic society.

Oslo, 7 June 2011

Helga Hernes

Svein Grønnern

Trygve Harvold

Knut Hanselmann

Gunhild Øyangen

Theo Koritzinsky

Wenche Elizabeth Arntzen

---

Henrik Magnusson

VIII APPENDIX

2. Photo from the surveillance room

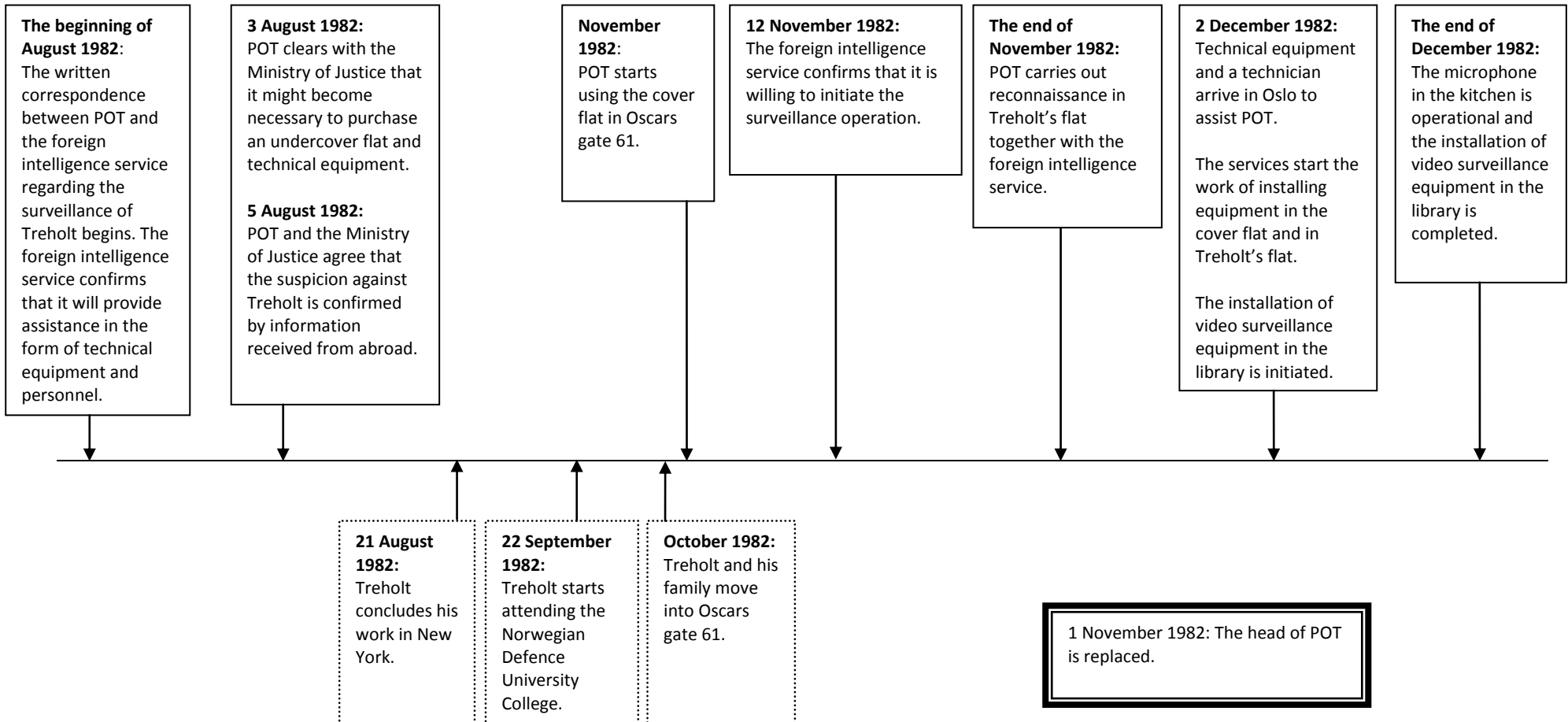




### 3. Surveillance timeline

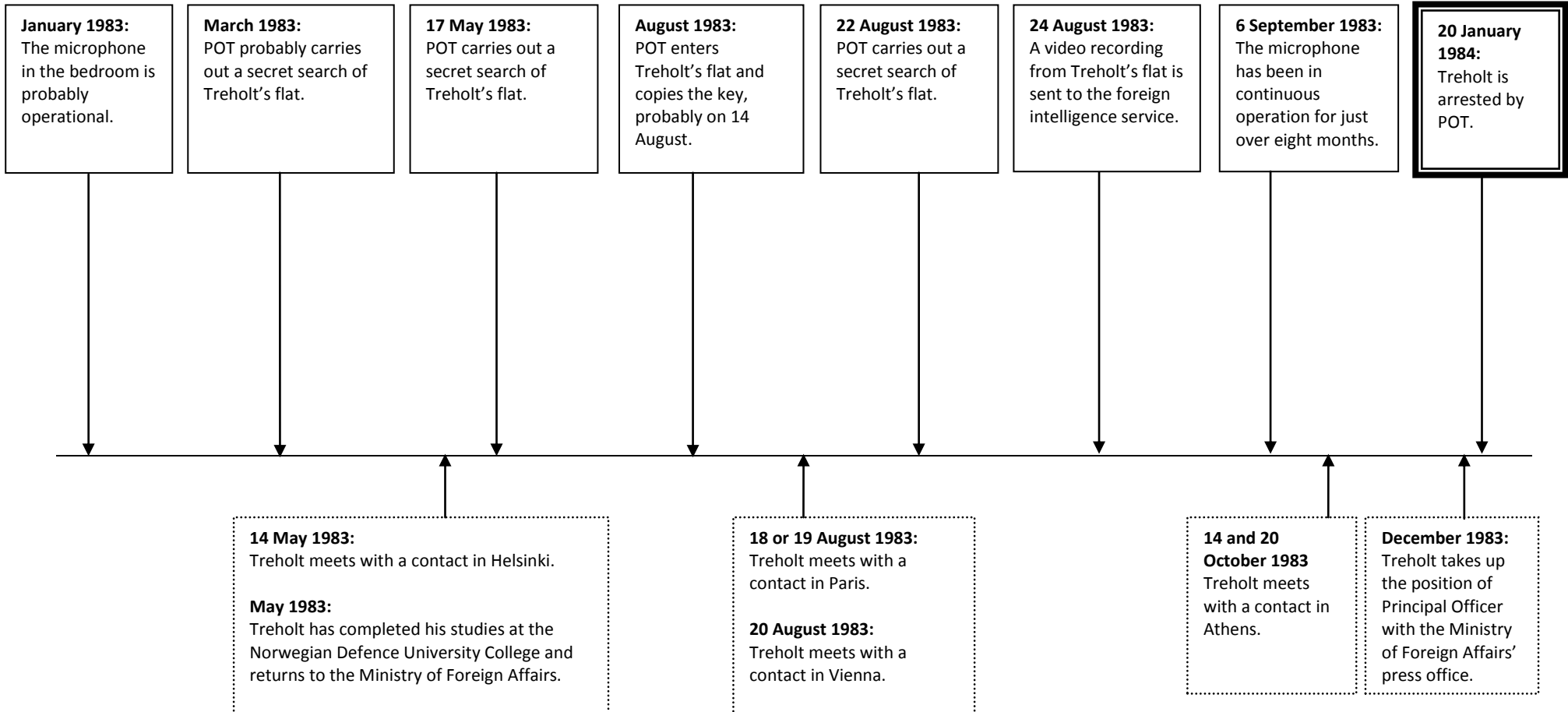
# 1982

December 1982-January 1984:  
POT has Treholt under continuous telephone surveillance. POT carries out at least five more secret searches of Treholt's flat during this period.



# 1983-1984

December 1982-January 1984:  
POT has Treholt under continuous telephone surveillance. POT carries out at least five more secret searches of Treholt's flat during this period.



#### 4. References

- Andenæs, Johs. (1988). Treholtsaken i tilbakeblikk (*'The Treholt case in retrospect'* – in Norwegian only). Norwegian law journal *Lov og Rett* 1988, page 567.
- Andenæs, Johs. (1990a). Hemmelig ransaking (*'Secret searches'* – in Norwegian only). In: Christie, Nils (ed.). - den urett som ikke rammer deg selv: Festskrift til Anders Bratholm 70 år (*'- Accepting that outrage on all else may fall: Festschrift on the occasion of Anders Bratholm's 70th birthday'* – in Norwegian only). Universitetsforlaget, Oslo.
- Andenæs, Johs. (1990b). Almennelig strafferett, 3. utgave (*'General criminal law'*, 3rd edition – in Norwegian only). Universitetsforlaget, Oslo.
- Bergh, Trond and Eriksen, Knut Einar (1998). Den hemmelige krigen – overvåking i Norge 1914–1997. (*'The secret war – surveillance in Norway 1914-1997'* – in Norwegian only). Cappelen akademiske forlag, Oslo.
- Bratholm, Anders (1968). Politiet og personlighetsvernet (*'The police and protection of privacy'* – in Norwegian only). Norwegian law journal *Lov og Rett* 1968, page 289.
- Document no 15 (1995–1996). Rapport til Stortinget fra kommisjonen som ble nedsatt av Stortinget for å granske påstander om ulovlig overvåking av norske borgere (Lund-rapporten) (*'Report to the Storting from the commission appointed by the Storting to investigate allegations of unlawful surveillance of Norwegian citizens (the Lund Report)'* – in Norwegian only).
- Eckhoff, Torstein (1963). Legalitetsprinsippet (*'The principle of legality'* – in Norwegian only). Nordic law journal *Tidsskrift for Rettsvitenskap* 1963 page 226.
- Eckhoff, Torstein (1979). Rettslige sider ved overvåking og sikkerhetstjeneste (*'Legal aspects of surveillance and security services'* – in Norwegian only). Norwegian journal for law students *Jussens venner* 1979 page 35.
- Fleischer, Carl August (1992). Uholdbar mistenkeliggjøring av politi og påtalemyndighet (*'Unacceptable suspicions cast on the police and prosecuting authority'* – in Norwegian only). Norwegian law journal *Lov og Rett* 1992, page 23.
- Norwegian Official Report NOU 1994: 4. Kontrollen med de "hemmelige tjenester" (*'Oversight of the "secret services"'* – in Norwegian only).
- Rieber-Mohn, Georg Fredrik (1996). Innlegg og kommentarer – etterforskning og påtalemyndighet (*'Contributions and comments – investigation and the prosecuting authority'* – in Norwegian only). Norwegian law journal *Nytt i strafferetten* no 2 1996, page 19.
- Circular no 3 1999 from the Director General of Public Prosecutions. Investigation.
- Salomonsen, Olaf (1925). Den norske straffeproseslov med kommentar (*'The Norwegian Criminal Procedure Act with comments'* – in Norwegian only). Second edition, Oslo.