

Document 7:1

Special report to the Storting on the Norwegian Intelligence Service's role in the June 25 case

To the Storting

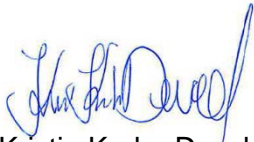
In accordance with Act No 7 of 3 February 1995 relating to the Oversight of Intelligence, Surveillance and Security Services (the Oversight Act) Section 17 third paragraph, the Committee hereby submits its report about the Norwegian Intelligence Service's (NIS) role in the June 25 case to the Storting.

The report is unclassified, cf. the Oversight Act Section 17 third paragraph. Pursuant to the Security Act, the issuer of information decides whether or not it is classified. The NIS and the Norwegian Police Security Service (PST) have been presented with the report in order to meet this requirement. The NIS and PST have also been given an opportunity to check for factual errors and misunderstandings in the text.

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Preface

The EOS Committee conducts legal oversight. The purpose of the Committee's oversight is to ascertain whether the rights of any person are violated and to prevent such violations, and to ensure that the services' activities do not unduly harm the interests of society, and that the activities are kept within the framework of statute law, directives and non-statutory law. The Committee's review includes, among other things, whether intrusive methods are permitted by law, and whether the duty of cooperation with other Norwegian authorities, including the duty to warn, is met.

The EOS Committee reports annually to the Storting in the form of an annual report. The Committee may also submit a special report to the Storting, cf. The Oversight Act Section 17 third paragraph.

Based on the nature of the present case, the Committee has decided to submit a special report.

1. The basis for the investigation, delimitations and conclusion

In the early hours of Saturday 25 June 2022, Zaniar Matapour fired into a crowd outside the pubs London Pub and Per på hjørnet. As a result of the mass shooting, two people were killed, nine sustained gunshot wounds and a further 20 suffered other physical injuries. A total of 266 people are currently considered to be victims of the mass shooting.

In the wake of the incident, a committee was appointed to evaluate the Norwegian Police Security Service's (PST) and the police's handling of the incident on 25 June 2022 (the Evaluation Committee). It was outside the remit of the Evaluation Committee to evaluate the Norwegian Intelligence Service (NIS).

The fact that the Evaluation Committee's remit did not include the NIS's role in the case became the subject of public criticism, and serious allegations were also made about the NIS's role in the case. Most serious were allegations that the NIS had provoked the incident on 25 June 2022, and that the service had not shared all relevant information it had with PST in advance of the incident.

Against this background, the EOS Committee decided in February 2023 to investigate the NIS's role in the case. Based on the EOS Committee's own remit, the Evaluation Committee's remit and report, allegations made in public and the Committee's initial investigations into the case, the Committee decided in June 2023 to delimit its further investigations into the NIS's dealings with the case to whether the service

1. by the way it handled its source, provoked the shooting on 25 June 2022,
2. complied with the duty of cooperation with PST in advance of the attack, and in this regard, whether the NIS complied with the duty to share all relevant information with PST in a timely manner in advance of the attack.

After its investigation of the case, the Committee has found no grounds for criticism of the NIS.

2. The Committee's remit – oversight purposes etc.

The Committee is tasked with oversight of the EOS services in accordance with the purpose set out in the Oversight Act Section 2 first paragraph, cf. Section 1 first paragraph and Section 5 first paragraph.

It follows from the Oversight Act Section 2 that the purpose of the Committee's oversight is:

1. to ascertain whether the rights of any person are violated and to prevent such violations, and to ensure that the means of intervention employed do not exceed those required under the circumstances, and that the services respect human rights,
2. to ensure that the activities do not unduly harm the interests of society,
3. to ensure that the activities are kept within the framework of statute law, administrative or military directives and non-statutory law.

The Committee shall on its own initiative deal with all matters that it finds appropriate to its purpose, and 'particularly matters that have been subject to public criticism', cf. the Oversight Act Section 5 third paragraph. As mentioned above, questions about the NIS's dealings with the case have received considerable public attention.

It follows implicitly from the Oversight Act Section 2 first paragraph that the EOS Committee is expected to review the legality, and not the quality and efficiency of the EOS services' work.¹ Furthermore, the Committee shall, in its oversight activities, show consideration for

¹ Document 16 (2015–2016) p. 142. See also F. Sejersted, *Kontroll og konstitusjon*, 2002 p. 168.

national security and relations with foreign powers, cf. the Oversight Act Section 2 second paragraph first sentence.

The EOS Committee is entitled to express its opinion on matters within the oversight area, cf. the Oversight Act Section 14 first paragraph.

3. The Committee's investigations

The Committee has been informed about the NIS's role in the 25 June case through inspections of the NIS following the incident on 25 June 2022. The Committee has also been informed about PST's role in the case in connection with inspections of PST.²

The Committee has submitted written questions to the NIS and PST. Furthermore, the Committee has, on request, received extensive documentation material in the case from both the NIS and PST.

Based on documents in the case, the Committee identified current and former employees of the NIS and PST who could further elucidate the course of events. The Committee summoned 23 current and former employees of the NIS and PST for interviews in the form of an examination, cf. the Oversight Act Section 9. Of the 23 who were summoned, 16 were current and former employees of the NIS and 7 of PST. Minutes were taken of all the interviews. The minutes were adopted and signed by the interviewees.³

4. Handling of sources – the threshold for illegal provocation

4.1 The issue

One of the NIS's tasks is to collect and analyse information on foreign matters which can contribute to uncovering and counteracting cross-border terrorism, cf. the Intelligence Service Act Section 3-1 (f). The NIS's right to use intrusive methods when collecting information follows from the Intelligence Service Act Chapter 6. One of the methods that can be used is human intelligence (handling of sources). The Committee has assessed whether the NIS's handling of its source exceeded the threshold for illegal provocation and thus involved illegal use of methods.

4.2 Legal basis

The Intelligence Service Act Section 6-3 provides for using human intelligence as a method for collecting information:

'The Norwegian Intelligence Service may collect information through systematic interaction with persons in physical space or cyberspace. The Service may find, verify, cultivate, recruit, train and run sources for the purpose of collecting information which is not openly available or to facilitate such collection.'

The use of human intelligence entails a significant need for protection out of consideration for the security of the source and the sensitive nature of the activity. The source is not necessarily aware that they are interacting with the NIS. Furthermore, the interaction may be initiated by the source themselves or by the NIS.⁴

It is often necessary to include elements of infiltration and provocation to achieve the purpose of the collection. In the consultation paper on the draft bill for the new Norwegian Intelligence Service Act (hereinafter referred to as the consultation paper), the Ministry

² The Oversight Act Section 5 first paragraph.

³ For practical reasons, one of the minutes has only been adopted, but not signed.

⁴ Consultation paper 12 Nov. 2018 section 10.5.8. For the record, it is noted that the term 'source' is defined differently by the NIS and PST. The NIS's definition is used for the purpose of this document.

proposed to establish by law that collecting information through human intelligence could include infiltration and provocation.⁵ The Ministry did not proceed with this proposal, but stated that '[t]his is not intended to constitute any substantial difference from the proposal set out in the consultation paper'.⁶ It follows from the Intelligence Service Act Section 6-1 second paragraph that the methods set out in Chapter 6 'may be used covertly against persons subject to or otherwise affected by them'. Furthermore, it follows from the Intelligence Service Act Section 11-4 first paragraph that, in order to protect its operations, the NIS may, among other things, utilise 'cover structures and incorrect, false or misleading identities, documents and data'.

The preparatory works show that the NIS's personnel and sources can, for example, infiltrate a group or an organisation by posing as someone else, and in this connection influence the behaviour of persons by, for example, requesting information which is illegal to share according to the state where the information originates.⁷ In principle, the NIS will not have a legal basis in Norwegian law for provoking criminal acts that would not otherwise have been committed.⁸

The threshold for illegal provocation will not necessarily be the same for the NIS's use of methods as for the police's investigation involving elements of provocation. The objective of the NIS's counter-terrorism activities is not investigation and criminal prosecution, but to collect and analyse information on foreign matters which can contribute to uncovering and counteracting serious threats to Norway, cf. the Intelligence Service Act Section 3-1.

The legal issue the Committee has considered, is whether the attack on 25 June 2022 would have happened had it not been for the NIS's handling of the source. Furthermore, the Committee has assessed whether the NIS's handling of the source resulted in the attack being more serious or extensive than if the source had not been handled by the NIS.

4.3 Factual basis

The NIS has informed the Committee that an agent, on behalf of the service, had over time exchanged messages with a source via a digital messaging service. It was the source who had initiated contact with the agent. The agent operated covertly as an ISIL member vis-à-vis the source. The source was thus not aware that they were talking to an agent who worked on behalf of the NIS.

The operation was managed and controlled by the NIS; it was the NIS that determined the need for information, instructed the agent and covered the agent's expenses. The Committee has been informed that the NIS also provided the agent with training in intelligence tradecraft, including knowledge in the NIS's statutory framework. The agent's work was continuously followed up by the NIS. The threshold for provocation was both part of the training and was discussed in the ongoing work.

On Sunday 19 June 2022, the source initiated a dialogue with the agent. The source wanted to establish contact between ISIL's media unit and an unknown ISIL sympathiser in order to ask ISIL to assume responsibility for a planned terrorist attack in Norway. On Wednesday 22 June 2022, the agent initiated a dialogue with the source where the conversation about the planned terrorist attack in Norway continued. There was no further contact between the agent and the source before the attack on 25 June 2022.

⁵ Consultation paper of 12 Nov. 2018 section 10.5.8.

⁶ Proposition No 80 to the Storting (Bill) (2019–2020), section 10.6.3.

⁷ Proposition No 80 to the Storting (Bill) (2019–2020), section 10.6.3.

⁸ Consultation paper of 12 Nov. 2018 section 10.5.8.

Normally, the agent only wrote summaries of the conversations with the source. However, in these two conversations, the source set the messages to self-destruct after 30 seconds. This was not something the source had done in previous conversations. When the agent discovered this, the agent quickly started to take pictures of the messages.

The NIS has stated that the dialogue must be seen in the context of the agent's attempt to appear credible in their cover as an ISIL fighter in order to gain the source's trust. This included thanking the source for their effort and sacrifice, as well as stating that it was important that the operation was carried out well and caused great damage and left a deep impression on the non-believers.

If the agent had discouraged the source from carrying out the attack, the agent's cover could have been revealed and there would have been a risk of losing access to information about the planned attack. The goal was to build sufficient trust so that the source would reveal details of the planned attack.

The agent also tried to make several demands that had to be met for 'ISIL' to assume responsibility for the planned attack in order to delay it. This is evident in the fact that the agent, among other things, questioned whether the ISIL sympathiser could be trusted and whether the source vouched for them (*tazkiya*). Furthermore, the agent asked if many people knew about the planned attack and stressed the importance of the plans not being leaked. In this way, the agent tried to appear credible as an ISIL fighter and at the same time 'fish' for more concrete information about the attack plans.

In an attempt to buy time, the agent introduced requirements for proof that the alleged attacker had taken an oath of allegiance (*bayah*) to the right caliph before the attack. This would also identify the perpetrator of the planned attack. Furthermore, the agent stressed that 'ISIL' would not approve and assume responsibility for the planned attack until the agent was confident that the implementation of the attack would be successful and of a certain scope. The purpose of making such demands was to give the agent and the NIS more time to uncover and avert the attack.

4.4 The Committee's assessments

The Committee takes as its point of departure that the operation was controlled by the NIS, and that the agent acted on behalf of the NIS. Furthermore, the Committee considers that the agent had received adequate and relevant training from the NIS, including on the main characteristics of the threshold for illegal provocation, and that the agent received adequate follow-up.

In its assessment regarding the matter of provocation, the Committee has emphasised that it was the source who initiated the dialogue regarding support for the planned attack. At certain points in the dialogue, the agent writes in positive terms about terrorist attacks and stresses the importance of the planned attack being successful. In the Committee's opinion, these statements are of a very general nature. The statements do not contain information about the time, place or method of the attack and, in the Committee's opinion, were not capable of influencing the planning of the attack to a degree that would exceed the threshold for illegal provocation. Furthermore, the statements were made a relatively short time prior to the execution of the attack, and it is therefore unlikely that there was sufficient time to make any substantial changes to the attack plans. The Committee also points out that the agent never confirmed to the source that ISIL would assume responsibility for the planned attack.

A further prerequisite for the handling of the source to have been able to influence the attack, is that the source was a key player in the planning of the attack, or that they communicated this message directly or via others to the attacker or others who played a key role in the planning. In the dialogue, the source asserts that they were kept completely out of the

planning of the attack. It is unclear what role the source played in the planning of the attack. However, the Committee has not considered this, as it has already concluded that the statements were not capable of influencing the planning of the attack.

The Committee has also investigated allegations that the documentation of the dialogue is not complete, and that statements containing elements of provocation may have been omitted. The NIS has stated that initial courtesy phrases are missing in the documentation from both dialogues. This is because the messages were set to self-destruct at short intervals, which meant that the agent did not have time to take pictures of these messages before they were deleted. Furthermore, the documentation from the conversations shows that there are short breaks in both conversations. The Committee has considered the conversations and has not found evidence that any dialogue took place during the breaks that are not documented. In the Committee's opinion, there are no grounds for suspecting that any content is missing from the conversations that is significant to the matter of provocation.

The Committee's investigations have not found that the NIS's activities have constituted any breach of the prohibition against provoking acts that would not otherwise have been committed. Nor, in the Committee's opinion, is there any evidence that the handling of the source entailed that the attack became more serious or extensive than it would otherwise have been.

5. The NIS's duty to cooperate with PST – warning and disclosure of information

5.1 The issue

The NIS shall warn the Norwegian authorities of threats and other matters of a time-critical nature, and it shall report to the Norwegian authorities any foreign matter that is of significance to Norway and Norwegian interests, cf. the Intelligence Service Act Section 2-4 first paragraph. The Committee has considered whether the NIS disclosed in a timely manner all relevant information to PST in accordance with its obligations.

5.2 Legal basis

The NIS shall collaborate with other Norwegian authorities on, among other things, cross-border threats, cf. the Intelligence Service Act Section 10-1. The Collaboration Instructions⁹ state that the NIS and PST shall establish a close and trusting collaboration in general as well as in concrete cases.¹⁰ Good and effective collaboration mechanisms at the national level are required to deal effectively with cross-border threats. This is particularly the case between the NIS and PST, which should have seamless information sharing.¹¹

One of the NIS's primary functions is the duty to warn and report to other Norwegian authorities on matters within the framework of the service's tasks pursuant to the Intelligence Service Act Chapter 3.¹² The NIS has a duty to warn the Norwegian authorities of threats and other matters that become known to the NIS and that require immediate action or for other reasons are of a time-critical nature, cf. the Intelligence Service Act Section 2-4 first paragraph (a). Furthermore, the NIS is obliged to report to the Norwegian authorities any foreign matter that is of significance to Norway and Norwegian interests, cf. the Intelligence Service Act Section 2-4 first paragraph (b).

The Collaboration Instructions state that the services shall, as far as possible, cooperate in concrete cases through, among other things, the exchange of information and

⁹ Instructions for the Collaboration between the National Intelligence Service and the Norwegian Police Security Service, 13 Oct. 2006 No 1151.

¹⁰ The Collaboration Instructions Section 4.

¹¹ Consultation paper 12 Nov. 2018 Section 13.

¹² Proposition No 80 to the Storting (Bill) (2019–2020), section 6.1.4.

assessments.¹³ Furthermore, one service shall notify the other service without delay of any imminent activity that poses a threat to security and that may affect the other service's areas of responsibility.¹⁴

The Collaboration Instructions also stipulate that the services shall, as far as possible, exchange information (assessments, analysis products and unprocessed information) if this is necessary to promote the recipient body's tasks pursuant to law, or to prevent its activities from being carried out in an irresponsible manner.¹⁵ It follows from the Police Act Section 17b that one of PST's responsibilities is to prevent and investigate terrorist acts. The disclosure shall consider the need to protect sensitive sources and methods.¹⁶

The Committee has considered two questions regarding the NIS's duty of collaboration and duty to provide information:

1. Whether the NIS disclosed all relevant information that it was obliged to disclose in the case to PST.
2. Whether the NIS disclosed all relevant information in the case to PST in a timely manner.

5.3 Factual basis

On the afternoon of Sunday 19 June 2022, the NIS became aware of the agent's dialogue with the source about the plans for an attack against Norway. The person in the NIS who received the information forwarded it verbally to their superiors and other relevant persons in the service. It was agreed that the person in question would write a report based on the information provided by the agent with pertaining assessments the same evening. The report was completed in the early hours of Monday 20 June. One of the assessments that was made was that it was possible that the ISIL sympathiser was Arfan Bhatti. The report also recommended that the information be passed on to the NIS's multi-source analysis department and to PST for further consideration.

At around 9.30 on Monday 20 June, the information was forwarded to the multi-source analysis department, where the information was quickly found to be credible and it was considered likely that the ISIL sympathiser was Arfan Bhatti. An internal meeting was convened in the production line and held the same morning.

Just after 10.00 on Monday, the NIS's representative in the Joint Intelligence and Counter-Terrorism Centre (FEKTS) was verbally informed that the NIS had received information about a possible terrorist threat to Norway. This person was asked to arrange a meeting with PST the same day. The representative then sought out, among others, PST's department for counter-terrorism and informed relevant persons verbally that the NIS wanted to schedule a meeting with PST to convey serious information.

The meeting between the departments was set up from 13.00 to 14.00 and was conducted as a video conference. The NIS stated in the meeting that the source had been contacted by an unknown intermediary on behalf of an ISIL sympathiser. According to the source, the ISIL sympathiser planned an operation, most likely a terrorist attack, in Norway. The source's identity was disclosed to PST. The ISIL sympathiser wanted to get in touch with ISIL to ask whether ISIL would assume responsibility after the attack had been carried out. The NIS stated that in their assessment, the ISIL sympathiser was Arfan Bhatti.

¹³ The Collaboration Instructions Section 5.

¹⁴ The Collaboration Instructions Section 6 second paragraph.

¹⁵ The Collaboration Instructions Section 9 first paragraph first sentence.

¹⁶ The Collaboration Instructions Section 9 first paragraph second sentence.

Furthermore, the NIS stated that the information was considered credible and based on good access.

At this point, both the NIS and PST were aware that Arfan Bhatti had left Norway on 7 June 2022.

It was agreed that, after the meeting, the NIS would send a Request for Information (RFI) to PST with the information that had been communicated in the meeting. This was sent to PST the same day at approximately 16.00. The RFI contained the threat information and the most important of the NIS's assessments. In a footnote, it was stated that 'a separate document with somewhat more detailed information [would be] forwarded'. The RFI also contained several questions to PST that mainly concerned whether PST agreed with the NIS's assessment that the ISIL sympathiser was Bhatti. Furthermore, the RFI included a request to share Bhatti's travel information with cooperating foreign services.

The NIS has stated that in the meeting with PST on Monday 20 June, it was discussed that a possible attacker in Norway would most likely not be Bhatti since he was abroad. These assessments are not included in the RFI. Nor did the NIS forward any additional information, as stated in the RFI footnote, before the attack. According to the NIS, the intention was that the report from the evening of Sunday 19 June, without sensitive information, would later be sent to PST. It was established that this did not contain any more information than had already been provided in the RFI. Therefore, a new document was not sent.

An operational management meeting between the NIS and PST was held on Monday between 14.00 and 15.00. In this meeting, the NIS provided information about the threat notification and that the NIS considered the information serious. It was further stated that the sharing of information was in process and that the departments had met earlier that day.

On Tuesday 21 June 2022, the NIS completed a hypothesis document with the most likely scenario as of 21 June 2022. The conclusion was consistent with what the NIS had communicated to PST the day before.

On Wednesday 22 June, the agent contacted the source via the messaging app and continued their conversation from Sunday. The NIS considered that there was no new information that could shed light on the threat notification. It was not communicated within the NIS or to PST that there had been new contact between the source and the agent.

The NIS began scraping¹⁷ of Bhatti's Facebook profiles on Thursday 23 June. The process was completed at approximately 22.00–23.00 on Thursday evening. On Friday morning 24 June, the NIS began reviewing the information collected in connection with the Facebook profile, which was one of the selectors¹⁸ PST had given to the NIS on 16 June. The profile had a profile picture and a banner photo that had been updated on 14 June 2022. The banner contained a burning Pride flag with a text taken from the Quran. The profile picture contained a Pride flag with a strikethrough. Under the profile picture were the words 'Be natural' and above the flag, there was an Arabic text from the hadiths. Both texts were interpreted as calling for the murder of gay people. On Friday morning, the result of the analysis, including the description of the profile picture and the banner photo, was sent by email to the NIS's production line.

¹⁷ Scraping is the process of extracting large amounts of information from a data register that is accessible through a webpage or website.

¹⁸ A selector is an identifier associated with a specific person (personal selector) or with a specific pattern or delimitation (mode selector). A Facebook profile is an example of a personal selector.

On Wednesday 22 June, PST sent an email to FEKTS requesting a meeting with the NIS the following day. This email went unnoticed. On Friday morning, PST requested a meeting with the NIS the same day. The NIS had been in contact with FEKTS during the week about when it could expect a response to the RFI. The discovery of the content on Bhatti's Facebook profile led to the NIS also wanting a meeting that Friday. For practical reasons, the meeting was scheduled for Friday 24 June at 14.30. This meeting took place as a video conference.

The meeting began with one of the participants from PST reading out PST's preliminary response to the NIS's RFI. The NIS then reported on the status of the case. PST mentioned the last registered encounter with Bhatti. Bhatti was stopped by the police in connection with a SIAN demonstration, with one person in the passenger seat. When asked by the NIS who the passenger was, PST could not account for it. It later emerged that the passenger was Matapour. In conclusion, information was provided about the discovery of the content on Bhatti's Facebook profile. The meeting ended at approximately 15.30.

5.4 The Committee's assessments

5.4.1 Did the NIS share all relevant information with PST?

The legal issue is whether the NIS disclosed all relevant information about the threat to PST, cf. the Intelligence Service Act Section 2-4 first paragraph.

In the meeting with PST on Monday 20 June, the NIS stated that it had received information that a named source, allegedly via an unidentified intermediary, had been contacted by an ISIL sympathiser who wanted to come into contact with ISIL in order to receive support for carrying out an operation in Norway, most likely a terrorist attack. The NIS also listed several factors that, in their opinion, supported the belief that the ISIL sympathiser was in fact Bhatti. It was stated that they did not have any other information about the planned attack, including when it would take place, the targets (beyond Norway), method and any other persons involved. The same information was sent in writing to PST in the form of an RFI the same afternoon.

Furthermore, in the meeting with PST on Friday 24 June, the NIS informed PST that the profile picture and banner photo on one of Bhatti's Facebook profiles had been updated on 14 June 2022. The service described the content and its assessment of this information.

The NIS did not disclose that the information originated from its own collection operation or other matters that could further elucidate the origin of the information. It was not disclosed that the NIS had pictures of the agent's dialogue with the source from Sunday 19 June and Wednesday 22 June.

Circumstances surrounding the origin of the information may be relevant in order to consider the credibility of the information. At the same time, an intelligence service's sources and methods are at the core of its ability to obtain information. Protection of a source's identity is also about the fact that should their identity be revealed, the source's life could potentially be at risk. Any intelligence service will therefore go to great lengths to protect its sources and methods. The question is whether the information about the sources and method was covered by the NIS's duty to warn and report pursuant to the Intelligence Service Act Section 2-4 first paragraph, cf. the Collaboration Instructions Section 9.

It follows from the Collaboration Instructions Section 9 that the duty to exchange information (assessments, analysis products and unprocessed information) that is necessary to promote the recipient body's tasks pursuant to law 'shall take into account the need to protect sensitive sources and methods'. It also follows from the consultation paper to the Intelligence

Service Act that disclosure of information to national authorities must not be carried out in a way that ‘irresponsibly exposes protected sources, methods and capabilities.’¹⁹

In this case, the agent who acted on behalf of the NIS constitutes a ‘source’ in the sense of the Collaboration Instructions. The fact that the threat information originated from the NIS’s own collection operation is covered by the term ‘methods’. Raw data related to the operation, including the pictures of the dialogue, could have revealed both the source and the method.

In the Committee’s opinion, the fact that the NIS must take into account the need to protect sources and methods entails that the service must weigh this consideration against the duty to warn and report pursuant to the Intelligence Service Act Section 2-4, the purpose of which is to promote the recipient body’s tasks, in this case to promote PST’s task pursuant to the Police Act Section 17b on the prevention of a possible terrorist act. At the same time, the cooperation between the NIS and PST must be based on trust²⁰ in the sense that if a service, when disclosing information, states that it considers the information to be credible, this should be given weight. It would otherwise entail a duplicate effort and associated loss of time.

It is assumed in the preparatory works to the Oversight Act that the Committee shall exercise caution in its oversight of the services’ discretionary judgement and that it is ‘hardly conceivable that discretionary judgment exercised within the limits of what is reasonable would be criticised’.²¹ In the Committee’s opinion, the NIS provided all relevant information it had about the threat and its assessment of it to PST. Furthermore, in the first meeting with PST on Monday, it was said that the NIS considered the information to be credible and based on good access. In the Committee’s opinion, the NIS’s balancing of conflicting interests was within the realm of reasonable discretionary judgement.

The extent to which information that can, in whole or in part, reveal sources and methods should be shared is, to a significant extent, an intelligence-related issue that also touches on considerations of national security and relations with foreign powers, cf. the Oversight Act Section 2 second paragraph first sentence. Furthermore, it is outside the Committee’s oversight remit to assess the appropriateness of information about the source and method of collection not being shared in this case.²²

Based on the Committee’s investigations, the Committee assumes that the NIS shared all relevant information about the threat that the service had at the time in the meeting with PST on Monday 20 June. The NIS did not receive new information about the threat until Friday morning when the content on Bhatti’s Facebook profile was discovered. The NIS shared this information with PST in the meeting held on the same day.

The Committee concludes that the NIS has complied with its duty to warn and report under the Intelligence Service Act Section 2-4 first paragraph.

5.4.2 Did the NIS share the information with PST in a timely manner?

It follows from the Intelligence Service Act Section 2-4 first paragraph (a) that the NIS shall warn the Norwegian authorities of threats and other matters that require immediate action or for other reasons are of a time-critical nature. The duty to warn includes a duty for the NIS to inform the Norwegian authorities of a possible imminent threat without delay, cf. the Collaboration Instructions Section 6 second paragraph. However, the Intelligence Service Act

¹⁹ Consultation paper 12 Nov. 2018 section 13.3.2.1.

²⁰ Consultation paper 12 Nov. 2018 section 13.2.1.1.

²¹ Official Norwegian Report (NOU) 1994: 4 section 4.2.1.

²² Doc. No 16 (2015–2016) p. 142. See also F. Sejersted, *Kontroll og konstitusjon*, 2002 p. 168.

Section 2-4 first paragraph (a) goes even further, cf. that the duty to warn also includes 'other matters' that for 'other reasons are of a time-critical nature'.

The information the NIS received from the agent on Sunday 19 June indicated a possible terrorist threat to Norway. The information did not provide specific information about the planned attack in the form of when it would take place, the targets (beyond Norway), method or any other persons involved.

Given the severity of the threat and that the NIS considered the information to be credible, it was, in the Committee's opinion, time-critical to clarify whether the threat notification was real and, if so, when and where the terrorist attack was planned to be carried out. The Committee thus finds that the NIS had a duty to inform PST without delay about the threat notification pursuant to the Intelligence Service Act Section 2-4 first paragraph (a).²³

The report prepared by the NIS on Sunday evening requested that the information be passed on to PST for consideration.

On Monday morning, contact was made with FEKTS with the intention of informing them that the NIS wanted a meeting with PST to convey serious information. The meeting with PST was held at 13.00. Both the threat information and the NIS's assessments were communicated. At 16.00, the NIS sent an RFI to PST with all the information the NIS had about the threat notification and its assessments of the information.

From the time the result of the NIS's scraping of Bhatti's Facebook profile was available late Thursday evening, it took a few hours to translate and analyse the Arabic texts. The analysis was forwarded internally in the production line on Friday morning. The information about Bhatti's Facebook profile with the NIS's assessment of the information was shared with PST in the meeting at 14.30 on the same day.

The Committee refers to the fact that the NIS shared the information just hours after the service obtained it. This applies to both the threat message received on Sunday 19 June and the content on Bhatti's Facebook profile. The Committee believes that the NIS warned PST and gave its assessments in a timely manner under the Intelligence Service Act Section 2-4 first paragraph (a).

6. Concluding remarks

The Committee has assessed whether the NIS, by the way it handled its source, provoked the shooting on 25 June 2022, and whether the service shared all relevant information in the case with PST in a timely manner in advance of the attack.

The Committee's conclusions are as follows:

- The Committee has not found that that the NIS's activities have constituted any breach of the prohibition against provoking acts that would not otherwise have been committed.
- There is no evidence that the handling of the source led to the attack becoming more serious or extensive than it would otherwise have been.
- The NIS has complied with its duty to warn and report under the Intelligence Service Act Section 2-4 first paragraph.
- The NIS warned PST and gave its assessments in a timely manner pursuant to the Intelligence Service Act Section 2-4 first paragraph (a).

It is beyond the Committee's remit to assess the efficiency and quality of the services' work.

²³ See also the Collaboration Instructions Section 6 second paragraph.

According to the Collaboration Instructions Section 4, close and trusting cooperation between the services shall be facilitated, at the general level as well as in specific cases. The Committee has noted that the NIS and PST have entered into a new collaboration plan, partly on the basis of the recommendations for improvement pointed out by the Evaluation Committee. This aims to contribute to further developing the collaboration between the NIS and PST through better utilisation of the services' overall resources, increased exchange of information and cooperation, and appropriate division of tasks in order to effectively address relevant threats and security challenges.²⁴ One of several objectives is to ensure an appropriate degree of integration between relevant professional environments and functions in the NIS and PST, both in the ongoing collaboration and in connection with an elevated threat. The Committee takes a positive view of this.

²⁴ Collaboration plan 2023–2024.

