

Instructions for Monitoring of Intelligence, Surveillance and Security Services (EOS)

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

Section 1. The monitory committee

The Committee shall have seven members including the chairman and vice-chairman, all elected by the Storting, on the recommendation of Presidium of the Storting, for a period of a maximum of five years. Steps should be taken to avoid replacing more than four members at the same time.

Those elected shall be cleared for the highest level of national security classification and according to treaties to which Norway is a signatory. After the election, authorisation shall be given in accordance with the clearance.

The Presidium of the Storting appoints one or more secretaries as well as any office assistance, and arranges premises for the Committee and the secretariat. The second paragraph shall apply correspondingly.

Section 2. Quorum and working procedures

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

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

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

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

Section 3. Conduct regulations

The secretariat keeps the case records and minutes. Decisions and dissents shall be recorded in the minutes.

Statements and comments uttered or recorded during the monitory process shall not be regarded as final unless they are reported in writing.

Section 4. Limitations, etc. of the monitory process

Monitoring responsibilities shall not include activities involving persons who are not resident in Norway and organizations that have no address in this country, or activities involving foreign citizens whose residence in Norway is associated with service for a foreign state. The Committee may however practise monitoring in cases such as those mentioned in this paragraph when special grounds so indicate.

The monitoring should be arranged in such a way as to interfere as little as possible with the day-to-day activities of the services. The Ministry prescribed by the King may wholly or partly

suspend the monitoring during a crisis or in wartime until the Storting decides otherwise. The Storting shall be notified immediately of any such suspension.

Section 5. Limitations of access to information

The Committee shall not apply for more extensive access to classified information than is necessary for purposes of monitoring. It shall as far as possible observe consideration for protection of sources and of information received from abroad.

Information received shall not be communicated to persons other than authorised personnel or other public bodies who have no knowledge of it except when necessary in the course of duty, for monitoring purposes or as a consequence of the procedural regulations laid down in section 9. In cases of doubt, inquiries should be made of the person who supplied the information.

Section 6. Disputes concerning access to information and monitoring

The decisions of the Committee concerning what information it shall apply for access to and concerning the scope and extent of the monitoring shall be binding on the administration. The responsible personnel at the duty station concerned may require that a reasoned protest against such decisions be recorded in the minutes. Protests following such decisions may be submitted by the Chief of Defence and the Chief of the Norwegian Security Service Police.

Such protests shall be published in or be enclosed in the annual report of the Committee.

Section 7. Monitoring and statements

The Committee shall normally abide by the principle of subsequent monitoring, but may notwithstanding require access to information on current matters, and submit comments on such matters.

The monitoring and the formulation of statements by the Committee shall be founded on the principles laid down in the first paragraph and the first, third and fourth sentences of the second paragraph of section 10 and in section 11 of Act No. 8 of 22 June 1962 relating to the Storting's Ombudsman for Public Administration. The Committee may also propose improvements to administrative and organisational arrangements and routines when this may facilitate the monitoring or protect against injustice.

Before statements are made that may result in criticism or expressions of opinion being brought against the administration, the responsible superior officer shall be given an opportunity to make a statement concerning the issues raised in the matter.

Comments to the administration shall be addressed to the head of the service or body concerned or to the Chief of Defence or Ministry concerned when such comments apply to matters they should be familiar with as authorities responsible for issuing instructions and exercising control.

In the case of comments encouraging the implementation of measures or making of decisions, the recipient shall be requested to respond by giving notification of the actions that are taken.

Section 8. Complaints

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

Statements to complainants should be as complete as possible without revealing classified information. Statements in response to complaints against the surveillance service concerning surveillance activities shall however only declare whether or not the complaint contained valid grounds for criticism. If the Committee holds the view that a complainant should be given a more detailed explanation, it shall propose this to the Ministry concerned.

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

Section 9. Procedures

Interviews with private persons shall take the form of an examination unless they are of a purely explanatory nature. 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 civil servants. In matters that may result in criticism of specific officers, interviews should normally take the form of examinations.

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

Persons who may be exposed to criticism from the Committee should be notified of this if they are not already familiar with the case. They have a right to familiarise themselves with the Committee's unclassified materials and with classified materials that they are authorised to examine, provided that this will not damage the investigations.

Any person making a statement shall be made aware of evidence and allegations that are inconsistent with the statement, provided that such evidence and allegations are unclassified or are on a level of security classification for which the person concerned is authorised.

Section 10. Investigations at the Ministries

The Committee may not demand access to the Ministries' internal documents.

If the Committee wishes to have access to information or statements from a Ministry or its employees concerning matters other than those applying to the Ministry's dealings concerning clearance and authorisation of persons and enterprises, these shall be obtained by written application to the Ministry concerned.

Section 11. Inspection

1. Responsibilities for inspection are as follows:

- a) For the intelligence service: to ensure that activities are held within the framework of the service's established responsibilities, and that no injustice is done to any person.
- b) For the security service: to ensure that activities are held within the framework of the service's established responsibilities, to monitor clearance matters in relation to persons and

enterprises for which clearance is advised against by the security staff or refused or revoked by the clearance authority, and also to ensure that no injustice is done to any person.

c) For the surveillance service: to monitor surveillance matters, operations and measures for combating terrorist activities by means of electronic surveillance and mail surveillance and to monitor to ensure that the collection, processing, registering and filing of information concerning Norwegian residents and organisations is carried out in accordance with current regulations, and meets the requirements for satisfactory routines within the framework of the purpose stated in section 2 of the Act.

d) For all services: to ensure that the cooperation and exchange of information between the services is held within the framework of service needs.

2. Inspection activities shall at least involve:

a) half-yearly inspections of the central intelligence staff, involving accounts of current activities and such inspection as is found necessary.

b) quarterly inspections of the security staff, involving a review of matters mentioned under 1 b and such inspection as is found necessary.

c) six inspections per year of the Police Security Service HQ, involving a review of new cases and current electronic surveillance and mail surveillance, including at least ten random checks in archives and registers at each inspection, and involving a review of all current surveillance cases at least twice a year.

d) annual inspection of at least four duty stations in the external surveillance service, at least two duty stations in the local intelligence staff and/or intelligence/security service at military units and of the personnel security service of at least two Ministries/government agencies.

e) inspection of measures implemented on its own initiative by the remainder of the police force and by other bodies or institutions that assist the surveillance service.

f) other inspection activities indicated by the purpose of the Act.

Section 12. Provision of information to the public

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

The chairman or a deputy authorised by the Committee may otherwise provide information to the public concerning a matter that is under investigation as well as information as to whether the investigation has been completed or when it will be completed.

Section 13. Relations with the Storting

1. The provision laid down in the first paragraph of section 12 shall apply correspondingly to the Committee's reports and annual reports to the Storting.

2. If, in the view of the Committee, consideration for the Storting's control of the administration indicates that the Storting should familiarise itself with classified information in a case or a matter that the Committee has investigated, the Committee shall in a special report or in its annual report to the Storting bring this to the attention of the Storting. The same applies if there is a need for further investigations of factors concerning which the Committee itself is unable to make any progress.

3. By 1 April each year, the Committee shall submit a report to the Storting concerning its activities during the previous year.

The annual report should include:

- a) an outline of the Committee's composition, meetings and expenses
- b) an account of inspection carried out and the results
- c) a list of complaints sorted according to category and branch of service, specifying the results of the complaints
- d) an account of cases and factors raised on the initiative of the Committee
- e) a specification of any measures requested implemented and the results, cf. fifth paragraph of section 6
- f) a list of any protests pursuant to section 5
- g) presentation of matters or factors that should be dealt with by the Storting
- h) the Committee's general experiences with the monitoring and regulations and potential need for changes

Section 14. Costs

1. The monitoring costs shall be covered via the Storting's budget.
2. Remuneration of the Committee's members and secretariat is fixed by the Storting.
3. Any person who is summoned to appear before the Committee has a right to receive compensation for travel expenses according to the official rates. Loss of income is compensated according to the rules for witnesses in court cases.
4. Specialists are remunerated according to the fee regulations for the courts. Higher rates can be agreed. Other persons engaged to assist the committee are remunerated according to the official scale of fees for committees if nothing else is agreed.