

## **The Norwegian Parliamentary Intelligence Oversight Committee (The EOS Committee) – A short presentation**

Given by Committee member Theo Koritzinsky, 28<sup>th</sup> May 2015: Conference on the Democratic Oversight of Intelligence Services in the European Union

### **1. Introduction**

Norway is a *parliamentary democracy*. As part of the Parliament's control of the Government, it has established the Intelligence Oversight Committee. In this very brief presentation I focus on the following questions: Why was the committee established? How is it composed and by whom is it elected? What are the legal mandate of the committee? How does it perform its inspections in different installations, files and archives? How can it have any impact on the services? What can be said, generally, about the relationships between the secret services and the oversight committee? What are some main future challenges for the committee, including cooperation with oversight bodies in other countries?

### **2. Political background**

Our oversight Committee was established by Parliament (the Storting) in 1996. The immediate reason was the extensive public and political debate and criticism surrounding the activities of the intelligence services, which led to the formation of a public commission. In its report from 1994 (known as "the Lund Report") the commission revealed that the Police Security Service had conducted extensive unlawful surveillance of persons and organizations on the political left wing, especially in the 1960s and 70s. Parliament wanted to make sure that both the *civil and military* Norwegian intelligence services from now on would keep their activities within the confines of the law.

### **3. Recruitment and composition**

The establishment and work of the Norwegian Parliamentary Intelligence Oversight Committee (the EOS-Committee for short) is regulated by statutory law. The Committee is

“parliamentary” in the sense that its members are appointed (elected) by Parliament, and publishes both annual reports and more specific reports for discussions in Parliament. The Committee performs its tasks on behalf of the Parliament, but it is independent vis-à-vis the Parliament in its day-to-day oversight activities.

The Committee is purely an *oversight* body. It does not take part as an advisor in priority processes in the intelligence services. However, it has the right to be *informed* about any ongoing processes in the services.

The Committee has seven members. They are appointed by Parliament for five years, but can and have usually been, re-elected. The Control Act states that the Committee must be composed of persons with a wide range of experience, both political and from other walks of life. Since the beginning, usually four or five of the seven committee-members have party political background from different parties, mostly as former members of Parliament or Government. This is considered to contribute both to the political competence in the Committee and to the legitimacy of its work. However, important to underline: It is almost impossible to find examples of discussions in the committee that clearly reflects the political background of its members.

The Committee has a permanent secretariat which has been strengthened considerably over the last years. At present, it consists of six lawyers, one political scientist, one technical expert and two administrative secretaries. In addition, the Committee can engage experts on an hourly basis. *All Committee members and employees must have the highest security clearance under national and NATO regulations.*

#### **4. The objective of the oversight and the Committee’s mandate**

The objective of the oversight is primarily to ensure the legal protection of the individual. It is the Committee’s job to establish whether anyone is being subjected to unjust treatment, to prevent this from occurring and also to ensure that the security and intelligence services do not make use of more intrusive methods than are necessary in the circumstances. The Committee is also required to control that these services work within their legal framework and that they do not violate general human rights. We have no authority to issue instructions or make decisions concerning the services. We can only express views on matters or circumstances that the Committee has investigated and address our recommendations directly

to the services, usually in written form. Such letters might for example recommend that a matter be reconsidered or that a measure or practice should be discontinued. In addition we have the possibility to point out possible shortcomings or even mistakes both in our special reports and in our broader annual report to Parliament. Today the services usually follow the Committees' recommendations. And Parliament has almost without exceptions supported and followed up our criticism and recommendations.

I will mention two more points from the mandate that contributes to our oversight possibilities: *We have extensive rights of access to the services' archives and records, and a corresponding extensive right of access to their premises and installations of all kinds.* In addition: Our mandate is *functionally defined* in our law, and not limited to specific organizational entities. It is therefore not of decisive importance for the Committees' authority which bodies or agencies perform security and intelligence services at any given time. Of course the Committee's continuous oversight is directed at the main and biggest organized services. However, the Committee may also conduct investigations in other parts of the public administration if found appropriate in order to check on their work and cooperation with the organized services, for instance the customs and immigration authorities and institutions doing security clearances. This right even includes private companies if they are conducting security activities on behalf of or led by the public administration.

## **5. Reporting to the Parliament**

Our annual report is handled by *The Standing Committee on Scrutiny and Constitutional Affairs* in Parliament. The report is public and therefore cannot contain classified information. The Committee may nevertheless make Parliament aware of the fact that it has classified information Parliament should know of.

The last couple of years the oversight Committee has also given oral presentations of the report in a meeting with the parliamentary Committee, followed by questions and discussions on certain issues raised by the participants. The parliamentary Committee then works out written comments to the report, which are debated in a plenary session in Parliament. The remarks from the parliamentary Committee and the debate in Parliament are important guidelines to the further work of our Committee.

## **6. The working methods of the Committee**

The Committee exercises its oversight through inspections and handling of complaints. Handling of complaints forms a limited part of our work, and is not necessary to go into here. Our far most important work are the inspections.

The Oversight Instructions (also given by Parliament) provide detailed regulations for the exercise of inspection activities. The Committee inspects the headquarters of the Police Security Service six times a year, the National Security Authority headquarters four times a year and the headquarters of the Norwegian Intelligence Service three times a year. External duty stations of the services are also regularly inspected. If necessary, more inspections can be held. Advance notice of inspections is given, but unannounced inspections can also be performed and have been used the last four years, resulting in some important findings.

Our inspections usually begin with a briefing on relevant recent developments and activities by the head of the service concerned. Following this, the Committee inspects the archives of the service. Here we go through files dealing with specific issues of special interest to us, selected beforehand by members of our secretariat and/or random samples taken on the basis of the criteria the Committee has agreed upon in advance. Our access to information is in principle unlimited with one exception: the Committee does not ask for access to files pertaining to sources/agents, and shows general restraint with regard to information that concerns relations with foreign cooperating services.

The preparatory work before inspections is done by the secretariat, which routinely has meetings with the services for document reading and register searches. Together with the preparations of the internal meetings of the Committee, and the day-to-day handling of complaints and matters the Committee brings up on its own initiative, this work takes up all the available time of the Committee and the secretariat.

Recently, the Committee has decided that there is a need for more thorough reviews and investigations of the work of the services. This will contribute to a better factual and legal basis for the Committee when making its decisions on matters concerning the legality of the services' actions. This "project based" way of working has been accepted by Parliament

which has raised the Committee's budget, to be able to employ another legal advisor and a political scientist in the secretariat.

## **7. The oversight of the organized services**

I will now give you some brief details on the Committee's oversight of the three main organized services.

### The Police Security Service

For this service the Committee concentrates especially on criteria and practice as regards registering persons in the service's records for preventative reasons, handing out personal information to other parties, as well as general keeping and erasure of archives and records. The oversight also includes the service's intelligence activities, including the use of various coercive methods. Because of the increased global need to prevent terrorism the service was in 2005, on a statutory basis, given powers to use enforcement measures such as telephone, Internet and room tapping also for preventative purposes. The service needs a court order to use these measures.

### The Intelligence Service

One of the main tasks in overseeing the Intelligence Service is to ensure that the ban in the Intelligence Service Act on conducting intelligence activities against Norwegian citizens in Norway is complied with, and that the service is under national control. It is especially when overseeing the Intelligence Service that the Committee employs expert assistance, mainly in the fields of information and communication technology. This is a type of expertise which is becoming more and more important for the Committee.

The rapid technological development creates new challenges continuously, both for the services and the Committee.

### The National Security Authority

The National Security Authority is a directorate under the Ministry of Defence. The service has the overall responsibility for vetting and issuing security clearances, and is the appeal body in such cases. The Committee's most important tasks vis-à-vis this institution and other security clearance authorities are to oversee the case handling and decisions in cases relating

to issuing security clearances to individuals. The Committee's oversight includes all security clearance authorities, both in the Armed Forces and in the civil service.

## **8. Relations to the secret services**

The Committee has since the start in 1996 developed a more open dialogue with the management of the services. The services are today more professional and oriented towards the rule of law than before. And the Committee has gradually achieved a better understanding of our functions and oversight possibilities. The discussions with the services during inspections have also given the Committee a lot of experience with their activities – which has influenced our competence to develop more focused and efficient control methods.

## **9. Public and international work of the Committee**

The work of the Committee can of course not be fully available to the public. But the Committee and the secretariat has gradually been more open towards the media and the public through participation in discussion meetings, seminars, issuing press releases, giving interviews in the media etc. To inform oversight committees in other countries about our work, we have an updated English version of our website ([www.eos-utvalget.no](http://www.eos-utvalget.no)).

The increasing international cooperation between intelligence and security services, especially in the work against terrorism, is in the Committee's opinion a great challenge to the oversight. The services regard the intelligence cooperation as highly sensitive. Our impression is that oversight bodies have to respect that information received from foreign services normally is not shown to them. Despite such limitations, the Committee believes that oversight bodies in different countries have a lot to learn from each other.

Internationally, the Committee cooperates with the Geneva Centre for the Democratic Control of Armed Forces (DCAF). The Committee and DCAF arranged in the autumn of 2008 an international conference in Oslo on the accountability of international intelligence cooperation. Members of the Committee has participated in several seminars and conferences arranged by DCAF – and contributed to a comprehensive handbook, being issued this year, about international challenges for national oversight bodies. The Committee has also had several bilateral meetings and seminars with other national oversight bodies, most frequently with those from Sweden, Denmark, Germany and the Netherlands. Finally, it can be

mentioned that members of the Committee has participated in the three last international IIRAC-conferences.

## **10. Conclusions**

I will briefly mention three important challenges for our committee:

- Keeping up with some developing trends inside and between the secret services concerning new technology, mixture of domestic and foreign threats (terrorism etc) and transnational cooperation between the services
- Strengthening international cooperation between democratic intelligence oversight bodies to exchange experiences and develop possible international arrangements for securing better the rule of law and respect for human rights inside and between secret services
- Stimulating openness and debate – in the media, in organizations and parties, in the secret services, among politicians and the general public about the dilemmas and necessities connected to having efficient secret services ruled by law and controlled by democratic oversight bodies.