



BELGIAN SENATE



## 6<sup>th</sup> Conference of the Parliamentary Committees for the Oversight of Intelligence and Security Services of the European Union Member States

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**Eduskunta / Parliament of Finland**

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**Representative Mr Antti Rantakangas, Chair of the Administration Committee**

### **OVERSIGHT OF INTELLIGENCE AND SECURITY SERVICES**

Internal and external security is of vital importance for every state and every society. To protect themselves as well as their national interests and values, today's states need security authorities.

Security authorities operate in many ways in a sensitive sphere, for example impinging closely on people's fundamental rights. Thus oversight of intelligence and security authorities must be arranged in such a way that we can trust them to operate in accordance with ground rules that are generally accepted in society.

May I, on behalf of the Administration Committee of the Eduskunta of Finland, express our warmest thanks to the Belgian hosts for having arranged this important conference? The last meeting of this kind was held in Bucharest in May 2009.

At this conference there is the opportunity for a broad discussion, in which different perspectives are taken into consideration, of oversight of intelligence and security services. In my view, we need to form as good and comprehensive a picture of this totality as possible.

There are differences between the legal systems in the various EU Member states; let's just take the Continental legislation-centred legal system in contrast to the Common Law system as one example. There are also differences in the ways that security services are organised, their tasks and their powers. Against this background, we can also understand that there are also differences in the way that oversight of these services is exercised. That is why I consider it very important that we discuss the totality, not just oversight of security services, but also their status in the various Member States. That is the best way to deal with the main theme of the conference, oversight of security services.

To the best of my knowledge, the security services in EU countries and oversight of them have not been the subject of any comprehensive and in-depth study or research. Of course, we do have the 2007 report of the Venice Commission at our disposal. In addition, the Finnish Ministry of Justice has conducted a fairly limited background study, based on legal comparisons, of parliamentary oversight of security police forces.

### **The Finnish system**

In Finland, intelligence gathering in relation to state security and combating terrorism is the responsibility of the Security Police, a national unit of the Finnish Police. It must be noted that the Security Police does not engage in counterintelligence activities abroad; it operates only in Finland and combats illegal intelligence gathering. The tasks and powers of the Security Police are precisely defined in legislation. Oversight of its activities is likewise thorough. Thus the Security Police is an authority and a part of the police organisation, which in turn is subordinate to the Ministry of the Interior. What this means is that its powers and oversight of its actions are arranged *a priori* in the same way as with other police authorities. As is the case with other police authorities, the parliamentary and political responsibility relating to them is realised through the Government and especially the Ministry of the Interior. The Government is accountable to the Eduskunta also with respect to the Security Police's activities.

### **Oversight of legality**

Internal oversight of the legality of police activities is performed by the Ministry of the Interior's Police Department and the Finnish Police Board. The use by the police of secret coercive measures (for example, telephone eavesdropping, for which a court order is required) is monitored in real time and with the aid of an oversight system that, in my view, can be described as progressive using any international criterion.

At least twice a year, the highest command echelon of the police examines the legality of secret coercive measures. In addition to the regular examinations, the Ministry of the Interior's Police Department has the right to examine the legality of measures also on a random, sample basis. Protocols of the inspections are drafted and used as a basis for, among other things, drafting the report that is made annually to the Parliamentary Ombudsman.

With respect to so-called secret coercive measures, the use of which is founded in law, the Finnish Security Police use a system into which all secret coercive measures are fed and, for example, telephone surveillance would not even be technically possible without the entries that the system requires. These entries make effective oversight of legality possible.

As with all other state authorities, external oversight of police authorities is founded on the work of the Parliamentary Ombudsman, the Chancellor of Justice (who is the Government's supreme overseer of legality) and the Data Protection Ombudsman. These overseers of legality deal with complaints and conduct inspections. They are also entitled to access to the Security Police's detailed operations and to examine all personal data in the Security Police's information systems.

The Chancellor of Justice and the Parliamentary Ombudsman have the right to familiarise themselves in detail with the Security Police's activities. For example, the legality of the use of secret coercive measures in individual cases has been examined in conjunction with inspections by the Parliamentary Ombudsman.

The Data Protection Ombudsman pays 8-10 inspection visits to the Security Police each year. The focus of attention during the visits is the legality of the use of the Security Police's registers. The Data Protection Ombudsman has the right to examine specifically the legality of using the contents of personal data files.

### **Parliamentary oversight**

Four of the Eduskunta's committees deal with matters relating to the Security Police. Every single bit of legislation concerning the Security Police and all aspects of its activities are within the purview of the committee responsible for internal security, in other words the Administration Committee that I chair. The emphasis in the Constitutional Law Committee's role is on observance of fundamental and human rights. The Foreign Affairs Committee deals with external relations. The Finance Committee, in turn, deals with the Security Police's budget as part of the overall police budget and the entire state budget.

No parliamentary body responsible solely for oversight of the authorities engaged in intelligence gathering and security activities has been appointed in Finland. However, all of the four committees that I have mentioned has a constitutionally enshrined right to obtain through the Ministry of the Interior information concerning the Security Police insofar as it pertains to their sphere of competence. On the basis of the information received, a committee can submit a statement to the Government evaluating the Security Police's activities.

In addition, the Security Police gives the Administration Committee, the Constitutional Law Committee and the Foreign Affairs Committee regular annual briefings on the security situation and the authorities' activities. At these meetings, which usually take place at the Security Police's offices, the Committee has the opportunity to familiarise itself with the Security Police's activities and current work situation. In addition to this, representatives of the Security Police attend committee meetings to be heard when a committee so requests.

Although parliamentary oversight of the Security Police is not covered by any provisions on the level of an Act or other special provisions, but instead subject to general regulation, the available means of oversight correspond in fact very largely to international practices, especially those followed in most of the EU Member States. In my assessment, the present system works quite well and there is no need to change it.

### **Cooperation within an EU framework**

The activities in which national security authorities engage from a national perspective have been regarded as one of the things that belong to the sphere of state sovereignty. On the other hand, the international development has led to a situation where the security situation in no state any longer depends on its own circumstances alone. The need for joint analysis of security risks and coordinated measures by states on the basis of that analysis are especially obvious among the EU Member States.

The Member States have indeed developed and are still developing their mutual exchanges of information and their opportunities to take cross-border measures. Effective cooperation does not necessarily require that different authorities have uniform powers. In a shared security environment, however, no state can remain an outside actor where security measures are concerned. Besides, requiring complete uniformity with respect to powers, organisation and oversight could be unrealistic in the light of the different legal traditions in different countries.

I want to stress that legal security is made up of, along with individual legal remedies, the legal order as a totality. The procedures for overseeing the exercise of powers must also be mutually compatible. That the various parties trust each other's actions is a prerequisite for effective cooperation. Achieving this trust presupposes, among other things, the existence of credible oversight procedures. On the operative level, cooperation between security services in the EU countries works fairly well in practice.

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