

The Act relating to the Monitoring of Intelligence, Surveillance and Security Services

Act No. 7 of 3 February 1995

Section 1. The monitory body and the area to be monitored

The Storting shall elect a committee for the monitoring of intelligence, surveillance and security services carried out by, under the control of or on the authority of the public administration.

Such monitoring shall not apply to any superior prosecuting authority.

The Public Administration Act and the Freedom of Information Act shall not apply to the activities of the Committee with the exception of the Public Administration Act's provisions concerning disqualification.

The Storting shall issue ordinary instructions concerning the activities of the monitory committee within the framework of this Act and lay down provisions concerning its composition, period of office and secretariat.

Section 2. Purpose

The purpose of the monitoring is:

- * 1. 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,
- * 2. to ensure that the activities do not involve undue damage to civic life,
- * 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 show consideration for national security and relations with foreign powers.

The purpose is purely monitory. The Committee may not instruct the monitored bodies or be used by these for consultations.

Section 3. The responsibilities of the monitory committee

The Committee shall regularly monitor the practice of intelligence, surveillance and security services in public and military administration.

The Committee shall investigate all complaints from persons and organizations. 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. *Factors* shall here be understood to include regulations, directives and practice.

When this serves the clarification of matters or factors that the Committee investigates by virtue of its mandate, the Committee's investigations may exceed the framework defined in the first paragraph of section 1, cf. section 2.

Section 4. Right of inspection, etc.

In pursuing its duties, the Committee may demand access to the administration's archives and registers, premises, and installations and of all kinds. Establishments, etc. that are more than 50 per cent publicly owned shall be subject to the same right of inspection.

All employees of the administration shall on request procure all materials, equipment, etc. that may have significance for effectuation of the inspection. Other persons shall have the same duty with regard to materials, equipment, etc. that they have received from public bodies.

Section 5. Statements, obligation to appear, etc.

All persons summoned to appear before the Committee are obliged to do so.

Persons making complaints and other private persons treated as parties to the case may at each stage of the proceedings be assisted by a lawyer or other representative to the extent that this may be done without classified information thereby becoming known to the representative. Employees and former employees of the administration shall have the same right in matters that may result in criticism of them.

All persons who are or have been in the employ of the administration are obliged to give evidence to the Committee concerning all matters experienced in the course of their duties.

An obligatory statement must not be used against any person or be produced in court without his consent in criminal proceedings against the person giving such statements.

The Committee may apply for a judicial recording of evidence pursuant to the second paragraph of section 43 of the Courts of Justice Act. Paragraphs 1 and 2 of section

204 of the Civil Procedure Act shall not apply. Court hearings shall be held in camera and the proceedings shall be kept secret until otherwise decided by the Committee or by the Ministry concerned, cf. sections 8 and 9.

Section 6. Ministers and ministries

The provisions laid down in sections 4 and 5 do not apply to Ministers, ministries, or their civil servants and senior officials, except in connection with the clearance and authorization of persons and enterprises for handling classified information.

Section 7. Interlocutory appeals

The Committee may appeal against rulings and decisions by the court concerning any step of a criminal investigative nature when the accused is not aware of them. The time limit for interlocutory appeals shall commence on the date that a ruling or decision is presented in a meeting of the Committee. The right of appeal is available even after the investigation has ceased.

In connection with interlocutory appeals, the committee shall engage a legal representative. The Committee's legal representative is appointed by the court.

Section 8. Statements and reports

- * 1. Statements to complainants shall be unclassified. Information concerning whether any person has been subjected to surveillance activities shall be regarded as classified unless otherwise decided. Statements to the administration shall be classified according to their contents.

The Committee shall decide the extent to which its unclassified statements or unclassified parts of statements shall be made public. If it is assumed that making a statement public will result in revealing the identity of the complainant, the consent of this person shall first be obtained.

- * 2. The Committee makes annual reports to the Storting about its activities. Such reports may also be made if factors are revealed that should be made known to the Storting immediately. Such reports and their annexes shall be unclassified.

Section 9. Duty of secrecy, etc.

With the exception of matters provided for in section 8, the Committee and its secretariat are bound to observe a duty of secrecy unless otherwise decided.

The Committee's members and secretariat are bound by regulations concerning the handling of documents, etc. that must be protected for security reasons. They shall be authorized for the highest level of national security classification and according to treaties to which Norway is a signatory.

If the Committee is in doubt concerning the classification of information given in statements or reports, or holds the view that the classification should be revoked or reduced, it shall submit the question to the agency or ministry concerned. The decision of the administration shall be binding for the Committee.

Section 10. Assistance, etc.

The Committee may engage assistance.

The provisions of the Act shall apply correspondingly to persons engaged to assist the Committee and to legal representatives appointed pursuant to section 7. However, such persons shall only be authorized for a level of security classification appropriate to the assignment concerned.

Section 11. Penalties

Wilfully or grossly negligent infringements of section 4, the first and third paragraphs of section 5, the first and second paragraphs of section 9 and the second paragraph of section 10 of this Act shall render a person liable to fines or imprisonment for a term not exceeding 1 year, unless stricter penal provisions apply.

Section 12. Entry into force

This Act shall enter into force immediately.