

## Belgian Observations on Intelligence Oversight and Strategic Opportunities for Change

- § 1 In my capacity as a member of the Permanent Committee for Control of the Intelligence Services in Belgium, it is an honour for me to speak here at this conference, and exchange some ideas.
- § 2 There are two intelligence services in Belgium:  
the *Administration de la Sûreté de l'Etat* [State Security Authority], a civil intelligence service  
the *Service général du Renseignement et de la Sécurité* [General Intelligence and Security Service] (SGR for short), a military intelligence service.  
The State Security Authority and the SGR are mentioned in certain laws and in certain Royal Decrees. To this day however, the existence, tasks and methods of these two services are not the subject of any framework law. Until 1993, these two services were not subject to any external control.
- § 3 In the course of the 1980s the country was shaken by a series of disturbing or even tragic events, in particular :  
what are known as the Walloon Brabant killings: no less than 19 attacks were perpetrated against individuals, establishments and department stores by what appeared to be an organised band who were called "the killers of Brabant" (*The "Bende van Nijvel"* in Dutch); the balance-sheet from these attacks was 27 deaths;  
the attempts by the "*Cellules communistes combattantes*" (C.C.C.), a clandestine movement claiming kinship with revolutionary Marxist-Leninism of which the balance sheet was two dead;  
the discovery of an organisation of the extreme right ("*Westland New Post*") infiltrated or manipulated by the State Security Authority;  
the discovery in 1990 of the existence in Belgium of a secret network known as "Gladio" operating with the support of the Belgian (State Security Authority and SGR) and foreign

intelligence services.

The media made great play of the possible existence of a link between the activities of this secret network and the acts of terrorism committed in Belgium in the 1980s, but this hypothesis was not supported by concrete facts. Numerous rumours and accusations then circulated concerning the working of the police services and the intelligence services. Furthermore, collaboration and co-ordination between these services, and finally the efficiency of the latter, raised numerous problems and gave rise to a good deal of criticism. Too much had been said, written and done for there to be no reaction.

Two Parliamentary Committees of Enquiry examined these matters and filed their reports:

on 30 April 1990, the report from the Parliamentary enquiry "*on the manner in which the struggle against organised crime and terrorism is organised*";

on 1st October 1991, the report from the Parliamentary enquiry "*on the existence in Belgium of an international clandestine intelligence network*".

These reports concluded more particularly that there was a need for an organic law on the intelligence services and that there was a need for external supervision of these services.

§ 4 The Permanent Committee for Control of the Intelligence Services was therefore established by the Organic Law of 18 July 1991 for the control of the intelligence services. The same law also established the Permanent Committee for Control of the Police Services.

The Committee was actually established on 26 May 1993. It consists of five effective members including a chairman and vice-chairman. These members are appointed by Parliament and they are answerable to Parliament.

All the members of the Committee carry out their duties full time.

As a sign of democracy, the main political groups, from the majority and from the opposition, Flemish and French-speaking, are represented on the Committee.

The Committee is a collegial body. It has internal rules approved by the Chamber of Representatives and by the Senate and published in the *Moniteur Belge* (Belgian official gazette).

The Committee has at its disposal an investigative staff .

§ 5 The mission of the Committee is to guarantee the rights of individuals as laid down by the constitution and by law, and to ensure the coordination and efficiency of the intelligence services .

For this purpose, the Committee inquires into the activities and methods of the intelligence services.

The task of the supervisory body is mainly to verify whether the political leaders must, in one way or another, modify the running of the intelligence services which come under its responsibility, or whether changes should be made to the legislation which applies to the services in question.

§ 6 Three federal authorities may, each separately, make requests to the Committee for enquiries:

Parliament

the Minister for National Defence, where the SGR is concerned;

the Minister of Justice, where the State Security Authority is concerned.

The Committee can act on its own initiative.

Individuals who have been directly concerned by the intervention of an intelligence service may be added to these federal authorities. They may address their complaints and accusations to the Committee or to its investigative staff.

§ 7 The Committee has several means of enquiry available to it: it has the right to be informed of internal regulations and instructions, and all the documents governing the behaviour of the members of the intelligence services, and also the sentences, orders or documents from enquiries relating to the crimes and offences committed by the members of these services. The Committee may not however interfere in these judicial enquiries.

The Committee and its investigative staff have the right to hear witnesses.

In this case, if members of the intelligence services are concerned, they may give evidence on matters covered by professional secrecy.

The chairman of the Committee may have members of the intelligence services summoned by bailiffs. The members of the intelligence services are then bound to give the secrets which they hold .

If a member of an intelligence service considers that he must keep the secret which he holds because revealing it would run the risk of physical danger to a person, the question is submitted to the chairman of the Committee who gives a ruling on it.

The Committee also has the right to seek assistance from experts and interpreters.

The Committee has never, to date, had to resort to any means of constraint in order to carry out its task of supervision.

§ 8 The members of the Committee's investigative staff may make the necessary findings anywhere. They may at any moment enter places where members of an intelligence service carry out their tasks, in order to make the material findings there. They may seize there any objects or documents of use to their enquiry.

If the seizure would run the risk of physical danger to a person, the question is submitted to the chairman of the Committee, who gives a ruling on it.

§ 9 The Committee has to prepare a report on each of its tasks of enquiry. These reports contain conclusions on the manner in which the intelligence services have carried out their tasks; they indicate whether activities or the methods employed have threatened the rights conferred on persons by the Constitution and the law. The reports also contain recommendations with a view to correcting any loopholes observed.

Each report must be sent to the Minister responsible for the intelligence service concerned by the investigation.

An exchange of views may take place between the Minister responsible and the Committee concerning each enquiry report. The Minister must within a reasonable period of time inform the Committee of the action which he reserves for the conclusions

of the enquiry. When at the end of a period of time which it considers reasonable, the Committee finds that no action has been taken concerning its conclusions, or that the measures taken are inappropriate or inadequate, it may make a new report to Parliament. The Committee may decide to make public all or part of its reports and conclusions. It must first of all seek the opinion of the ministers responsible and advise Parliament thereof. If one of these ministers gives an adverse opinion, the Committee can decide to make all or part of a report public only with a majority of four votes.

Before deciding to make a report public, the Committee takes account more particularly of the following factors:

ensure that no single form of intelligence will be disclosed which could either hinder the functioning of national and foreign intelligence services, or endanger the private lives and safety of individuals .

Each year, the Committee presents a general report on its activities to Parliament. This report summarises the activities during the preceding year and determines the priorities for activities to be undertaken in the matters which come within its competence. This report is prepared in general terms and does not mention specific situations or identify individuals by name so that it can be circulated widely.

The annual report on activities is produced by a majority of three votes; but, as a sign of democracy, it may mention minority opinions concerning all or part of its contents.

§ 10 The Committee has to date lodged four annual reports of activities. All these reports are public.

§ 11 Now let me expand a bit on the achievements of the committee and the future challenges for our institution and the Belgian and European intelligence community.

In accordance with its statutory tasks, the concerns of the Committee relate to the following aspects:

- adoption of a law on the intelligence services, including a clear definition of their tasks and methods;
- protection of citizens' rights through strict control over the methods employed;

- the effectiveness and coordination of these services and their collaboration.

The Committee has always exercised its oversight task by taking account of the balance of interests which should be struck between the protection of citizens' rights on the one hand and the effectiveness of the intelligence services on the other.

In this spirit, the Committee examined foreign legislation on intelligence services, in particular legislation in the Federal Republic of Germany, the Netherlands, Portugal, Switzerland, the Grand Duchy of Luxembourg, the French Republic, the United Kingdom, Italy, the United States and Canada.

§ 12 LAW ON THE INTELLIGENCE SERVICES

The main conclusions and recommendations of the Annual Report 1994 were as follows:

*"The Committee considers that it is essential that specific legislation should be adopted in order to establish and regulate both the tasks and methods of the intelligence services (...). In the absence of specific legislation, the methods of the intelligence services do not provide any legal security for citizens as they are not protected against possible improper interference by these services in their private lives (...). Legislation granting full status to these services would also contribute to improving their effectiveness."*

In 1995 the Committee tried, in the absence of legislation, to specify the tasks of the Belgian intelligence services on the basis of the currently applicable Royal Decrees and other regulatory texts.

On the 2nd of July 1996, the government tabled in Parliament a "draft law on the intelligence and security services". The Committee was invited by the Mixed Commission on Justice and National Defence of the House of Representatives to deliver an opinion on the bill.

In analysing the Government's Policy Memorandum in 1995 the Committee expressed the wish that the definition of the tasks of the intelligence services should not be too broad or too general, as *"this could well give them a field of intervention which would be too wide as regards constitutional and democratic freedoms."*

It is the opinion of the Committee that the effectiveness of the intelligence services

depends among others on a clear definition of their future tasks and a responsible choice as to their objectives, while their activities necessarily take place in both a national and international context .

The draft of the law on the intelligence services contains, in accordance with the wishes of the Committee, a general definition of the tasks of the State Security Service and the SGR.

Until a law lays down the general tasks of the intelligence services, they will only have a list of subjects as a working basis. In 1995, the Committee requested the "list of subjects" on which the State Security Service was working

*"The criteria determining which organization or group may appear on the list of subjects should be defined".*

The list of subjects dealt with by the State Security Service, which is dated on October 14th 1996, contains a preliminary memorandum explaining the activities and criteria which determine which persons or organizations should appear on the list.

The SGR list of subjects does not yet indicate the criteria governing its preparation.

It should, however, be noted that Article 3 of the Royal Decree of June 21th 1996, on the creation of a Ministerial Committee on Intelligence and Security, has entrusted to this body the task of establishing general intelligence policy and of determining the priorities of the intelligence services.

The draft law on the intelligence and security services assigns other new intelligence tasks to the State Security Service and to the SGR, in particular:

- the external security of the State and international relations ;
- activities which threaten or could threaten the security of Belgian nationals abroad;
- safeguarding the scientific and economic potential of the country.

The Committee has emphasized the importance of these tasks on several occasions since 1995. However, the Committee finds it necessary to record that, in the absence of additional resources in the form of qualified personnel, the intelligence services will be unable to accomplish these new tasks.

In 1994, the Committee ascertained that a considerable amount of intelligence concerning individuals could be gathered through consultation of documents drawn up

and held by various branches of the public service. Intelligence of this kind was gathered mainly on the basis of informal contacts.

Article 10 of the draft law on the intelligence and security services provides that public prosecutors, civil servants and public service employees may communicate information requested by such services in compliance with the law "*and the procedures laid down by their responsible authorities*".

The bill is still under discussion in Parliament.

Such legislation would also enable the Committee to accomplish fully its oversight task.

### § 13 SECURITY TASKS

In this connection, the Committee also considered in 1994 that "*the role expected of the intelligence services as regards security should be laid down ... by law*". In 1995 and 1996, the Committee devoted several inquiries into the security tasks of the intelligence services.

In each of these areas it has been the constant concern of the Committee to draw the attention of the responsible authorities to the importance of security tasks with a view to providing the intelligence services with complete legislation and appropriate structures.

#### - *Security of information systems:*

The first topic was the creation and structure of BELINFOSEC .

The Committee was confronted for the first time with this issue in 1994, when we decided to embark upon a control investigation in connection with the security of the communications of the national intelligence services , in response to questions raised by the military intelligence service .

At that time Belgium had no policy in connection with information and communication technology . Hence , there was a strong need to take action in that field .

Other than the intelligence services, several other government services need secure communication facilities and measures to avoid disclosure of sensitive computer data . Realizing that this problem needed to be brought to the attention of policy -makers , we opened this investigation .

During our investigation , the military intelligence informed us of an initiative taken by a Lt.-Col. of the technical security division .

Informal meetings were held, bringing together people from intelligence services,



business, academia and law enforcement . The Committee was introduced to this group, called Belinfosec and in February 1995 a member of our committee became chairperson of the group .

The Committee gave the reports of the Belinfosec workgroup to the legislative and executive powers , and thereby requested that Belinfosec be given an official status . The Ministers of Justice and Defence welcomed this initiative and promised to take further action themselves and - if necessary - with the Prime Minister's office . However, the same ministers concluded that the Committee could no longer chair Belinfosec as it would exert executive power in that case .

Belinfosec consists of people who are involved with aspects of security of sensitive information ( security systems, telecom , computer networks ). Members have different backgrounds.

One of the goals of Belinfosec is to increase the awareness of policy makers regarding the issue of infosec. It is vital that they realize the urgent necessity of creating a comprehensive legal framework .

One of the first activities of Belinfosec was to conduct an analysis of what had been done before in the field of infosec by the Belgian government . Belinfosec realized that no legislation existed . Moreover, nobody at the ministerial level had the responsibility of elaborating security norms . Finally, there is no Belgian agency responsible for the evaluation and certification of security soft- or hardware .

In 1995 , Belinfosec adopted a position paper on the security of information systems and the role of the legislator . This paper underlines the danger inherent in the development of the information society . These new technologies can endanger the individual rights ( e.g. privacy issues ) , the survival of commercial establishment ( economical espionage, theft of data ) and even threaten a nation state ( cyber terrorism ) .

The philosophy behind Belinfosec is to allow the free expressions of ideas in a multi-disciplinary setting . The first concern formulated by the members of Belinfosec, especially those representing the industry, concerned the creation of an agency responsible for the evaluation and certification of the security and information systems. At this time , Belgian companies wanting to certify their materials or software must resort to foreign services . Needless to say that is tantamount to a free transfer of technology to potential competitors.

Belinfosec continues to work and divided itself up in three main branches :

- the division business , with representatives of the Belgian industry who manufactures security systems ;
- the division privacy, government and society , which is charged with striking a balance between the respect of privacy and the collective interest and security ;
- the division legislation which is responsible for giving legal support to the two others groups and works on important projects such as developing a cryptography legislation for Belgium .

The Committee has encouraged the work of the Belinfosec group. It has also conveyed its recommendations to Parliament.

The memorandum of agreement between the SGR and the State Security Service provides for reciprocal assistance in this field. Much remains to be done, however, at the legislative and regulatory levels.

*Security certificates (1995):*

Together with the Council of State, the Committee considers that an investigation into the private life of an individual and his or her family can be carried out only in accordance with law. A right of appeal should be granted to a person to whom a security clearance has been refused or from whom it has been withdrawn.

As a consequence of this inquiry the government has prepared two bills, one of which relates to "security clearances", while the other assigns to the Committee the competence to know about appeals against refusals to grant such a clearances.

The Committee had the opportunity of stating its opinion on these bills and will report about it in his annual report 1998 .

*Protection of persons (1996):*

All of section 2 of the draft of the "law on the intelligence and security services" is devoted to the "performance of tasks relating to the protection of persons" by the State Security Service.

*The preservation, storage and destruction of files (1995):*

One of the questions raised in particular was how the Commission on the Protection of Private Life and the Committee could accomplish their tasks of protecting citizens' rights if the intelligence services could, without any other kind of formality, destroy the personal data held by them.

Now there are clear directives in this regard within the State Security Service and the SGR. A chronic shortage of administrative staff is, however, delaying implementation of these measures in the two intelligence services.

#### § 14 THE METHODS OF THE INTELLIGENCE SERVICES

The Committee has always approved the general principle of the bill in accordance with which the methods of the intelligence services should rule out any means of constraint and, except in an exceptional case, invade privacy.

Consequently:

- whatever is not forbidden to a citizen is permitted to the intelligence services;
- a statutory security authorization is required for the use of certain special methods.

In this respect it has also been a constant concern of the Committee to attract the attention of the competent authorities to the importance for the intelligence services of being in a position to use in a legal and controlled manner certain special research methods, in particular:

- the use of informers;
- interception of telecommunications;
- interception of written correspondence;
- entry into and search of a dwelling;
- shadowing and observation of individuals, meetings and gatherings;
- use of optical means of surveillance;
- the gathering of personal data and access to certain files and information held by other authorities.

The need for statutory authorization to use these methods derives from the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Committee and the Council of State have emphasised this on several occasions.

*Use of informers :*

This Annual Report 1997 contains a series of recommendations regarding the use of this important source of information for the intelligence services.

The Committee recommends in particular that legislation apply in this field the principles of subsidiarity and proportionality. The Committee also recommends clear directives relating to the behaviour and evaluation of informers and to measures designed

to guarantee their protection. These provisions still have to be drawn up. In the coming months there will be further discussion in this matter between the Committee and the intelligence services .

*Interception of telecommunications (1996 and 1997):*

The statutory prohibitions in this matter are, of course, motivated by the respect owed to the private and family life of citizens.

The Committee has devoted attention to this matter on more than one occasion. In 1996, it devoted a chapter in its annual report to a theoretical study of legislation on administrative wiretaps and bugs. In 1997, at the request of Parliament, it conducted an inquiry into interceptions of telecommunications carried out by the SGR.

This type of activity is essential for the SGR. It is mainly oriented to the military area and makes it possible, among other things, to detect the presence - or disappearance - of major units. The COMINT section of the SGR works in close collaboration with similar allied services, from which it also receives essential intelligence.

At the present time, the interception of private telecommunications, even of a military nature, even abroad and even in time of war is formally prohibited by two statutory provisions.

The Committee has therefore recommended that the legislation be adapted with a view to enabling the SGR to continue this task within a legal framework. Article 26 of the draft law on the intelligence services provides for this in part.

The Committee is also aware that a preliminary bill on security wiretapping and bugs is being drawn up for the purpose of enabling the State Security Service to resort to them. As soon as the Committee is aware of the content of this preliminary bill it will make sure to study it.

§ 15 A REASONABLE AND APPROPRIATE DEFINITION OF SECRECY

One essential characteristic of the intelligence services is that they work secretly. On several occasions, the Committee has wondered about the nature and basis of this obligation of secrecy.

In 1995, it was the manner in which the policy memorandum dealt with secrecy of sources and informers that had the attention of the Committee. The problem is therefore how to find "a balance between protecting the anonymity of informers and the need in

*certain cases (in legal proceedings) to know their identity".*

In 1997, the Committee discussed the question of the balance to be found between the right of the individual to have access to his or her file on the one hand and the need for secrecy on the other.

The Committee considers that an individual who reports probable material damage or mental distress in relation to information contained on such individual in a file of the intelligence services should - subject to certain conditions but to a greater extent than currently - be in a position to obtain a right to consult such documents.

The appropriateness of permitting or refusing such access should not be left exclusively to the judgment of the intelligence services.

The Committee is of the opinion that under no circumstances should the intelligence services continue to be the sole judges of the obligation as to secrecy:

- in the case of evidence produced by witnesses in legal proceedings, the solution applied in the Netherlands has been proposed, namely, a member of an intelligence service may be excused before a judge from his or her duty as to secrecy on the basis of an agreement to this by two Ministers, one of whom will be the Minister directly responsible for the intelligence service.
- for the purpose of permitting or refusing access by an individual to the file held on that individual by an intelligence service, a collegiate body such as the Committee could, after consultation with the competent Minister, find that the communication of certain information does not compromise state security, national defence, public security or the security of private individuals.

The Committee therefore considers that the law on the intelligence and security services should lay down what is meant by secrecy of information, that is to say, the content of the information involved, as a determination of the degrees of classification is not sufficient.

In the study on the status of the members of the intelligence services, the Committee briefly considered the obligations as to secrecy to which such employees are bound.

It has decided to hold an inquiry into this matter in the near future.

§ 16 COORDINATION OF THE INTELLIGENCE SERVICES

In 1994, the Committee stated:

*“ The adoption of an law would provide an appropriate framework within which to arrange for coordination of the intelligence services, as such coordination is currently not structured despite many common areas of interest and operation. ”*

In 1995, the Committee expressed regret that, despite the wishes of the legislature, the intelligence services had not systematically coordinated their activities. The Committee stated however that the responsibilities of these services had to be qualified insofar as the responsible Ministers had not arranged for this coordination.

The main recommendations of the Committee were therefore that:

- policy relating to intelligence and security should be made at government level and not at the level of the services;
- the general policy on intelligence and on priorities for the services should be established by way of concerted action within the government. The same should apply to determining policy on the protection of sensitive information.
- on the other hand, the function of carrying out and effectively coordinating the operational tasks of the intelligence services should be entrusted to a "Coordinator".

In 1995 and 1996, the Committee greatly regretted the shortcomings which existed as regards the coordination and exchange of information between the SGR and the State Security Service.

Two Royal Decrees of June 21th 1996 established the Ministerial Committee on Intelligence and Security and the College for Intelligence and Security. The task of the latter body is to ensure that the decisions of the Ministerial Committee are implemented in a coordinated manner.

Finally, a memorandum of agreement was signed on February 20th 1997 by the Director-General of the State Security Service and by the head of the SGR. This agreement was initiated and approved by the competent Ministers.

Practical implementation of the memorandum of agreement has begun.

Moreover, the draft law on the intelligence and security services imposes an obligation on these services to cooperate in an effective manner.

## § 17 COLLABORATION BETWEEN INTELLIGENCE SERVICES AND POLICE

On several occasions the Committee has emphasised that the police are authorised to gather and process intelligence under Article 39 of the law on the police function.

In 1994, the Committee considered that, in the context of a consultation body, a national magistrate could take over "*the necessary coordination of the intelligence services, judicial authorities and the police involved in the same tasks*".

However, other measures have been taken with a view to ensuring coordination of the activities of the intelligence services and the police:

- On the one hand, the civil servant who is head of the General Police of the Kingdom and the Commandant of the Gendarmerie are members of the College for Intelligence and Security (Article 2 of the Royal Decree of June 21th 1996 on the College).
- On the other hand, the Ghent public prosecutor has been entrusted with the specific task of relations with the State Security Service (Article 3 of the Royal Decree of May 6th 1997 on the specific tasks of the members of the College of Procurators-General (Public Prosecutors)).

An amendment to the draft law on the intelligence and security services currently imposes an obligation on the intelligence services to ensure "*effective collaboration with the police and with the administrative and judicial authorities*".

The Committee considers that, following the example of the memorandum of agreement concluded between the SGR and the State Security Service, a memorandum of this kind should be signed between the intelligence services on the one hand and the police on the other.

Such an agreement is required in order to bring into operation the coordination provided for in legislation and the regulatory texts. This would also be justified because of the increasingly large number of matters in which the spheres of competence of these services overlap, particularly as regards terrorism, organised crime, money laundering etc.

§ 18 THE PERSONNEL OF THE INTELLIGENCE SERVICES

In 1996, the Committee carried out a study on the status of the of members of the intelligence services. A chapter in the Annual Report 1996 was devoted to the employees of the State Security Service, while a chapter in the Annual Report 1997 was devoted to the SGR employees.

The Committee's concern in this matter is that the intelligence services should have a sufficient number of stable and qualified personnel (especially lawyers, analysts and computer specialists) who have a clear and coordinated status.

The Committee has issued around twenty recommendations aimed at bridging the gap between the specific status of this personnel and the status of civil servants.

§ 19 THE BUDGETS OF THE INTELLIGENCE SERVICES

In 1995, the Committee devoted a chapter in its annual report to the budgets of the State Security Service and SGR.

Unlike the SGR, which draws up budget estimates, the State Security Service does not have this power, and this sets limits to the initiatives which it can take in programming its tasks.

The Committee did not conduct any further inquiries in this matter in 1996 or 1997. In the course of its activities next year, the Committee will make sure to check use of the budget granted to the intelligence services in relation to the tasks assigned to them.

§ 20 OTHER INQUIRIES

- *Dangerous sects* (1995 and 1996):

This threat to civil life should, of course, be dealt with without harm to freedom of conscience and freedom of religion as recognised in the Constitution.

As far back as 1995, the Committee had cited dangerous sects as being one of the new subjects which should be of interest to the intelligence services.

In 1996, the Committee recommended improved collaboration with regard to this matter between the State Security Service and the SGR for the purpose of implementing a



common policy relating to security certificates. It therefore recommended wide distribution of intelligence on this subject.

The Commission with responsibility for the parliamentary inquiry "(...)aimed at drawing up a policy to combat the illegal practices of sects and the danger which they represent to society and individuals, particularly minors", considered that "an improvement in coordination is called for between the police and the various intelligence services and between these services and the judicial authorities".

The Commission recommended, in particular, "sanctioning the role of the State Security Service which should be given responsibility, in coordination with all the other intelligence services, for the activities of gathering information, centralization and, above all, analysis of information".

The Memorandum of Agreement, signed in May 1997 between the SGR and the State Security Service, is implementing this recommendation in relation to the intelligence services.

The draft of the law on the intelligence and security services confirms that "the moral or physical constraint exercised by a sectarian organisation" is a threat to "the internal security of the State and to the stability of the democratic and constitutional order" and should be dealt with by the State Security Service.

- *SGR activities and the establishment of provincial units by this service (1997):*

This inquiry was opened, inter alia, at the request of the Minister of National Defence who wishes to check on assertions that the SGR has been spying on civilians from its provincial stations.

- *Possible creation of a new intelligence service with special responsibility to exercise surveillance over immigrants (1997):*

The press and people in political life have almost unanimously condemned a passage in a memorandum which was intended for the General Staff of the Armed Forces and which was considered to be racist in content. The Committee conducted an inquiry in order to ascertain in what respect if any the SGR or any new intelligence service was involved in the drafting and implementation of this memorandum.

- The Committee also conducted inquiries into and reported on five complaints made by private individuals. None of the inquiries concluded that disproportionate or unjustified harm had been caused to the rights and freedoms of the complaints.

## § 21 USE OF OPEN SOURCES

The Committee has also been interested in the use of "open sources" by the intelligence services.

Since 1994, the Committee has been mindful of the importance of "open sources" in the intelligence world. In 1996, the Committee issued a detailed proposal in the context of the efficient use of open sources by a joint unit of the Belgian intelligence services. The proposal was initially in two parts:

- broaden the general documentation services through the recruitment of analysts;
- provide the services with sufficient information technology resources.

On several occasions, the Committee has suggested that the SGR and the State Security Service link up together to certain commercial databases in order to reduce costs.

The officials of the intelligence services admit that 80% -90% of the information required for their services can currently be obtained from open sources.

However, there are reservations as regards joint exploitation of such sources. Depending on their operational needs, exploitation will always be of a nature specific to the SGR and the State Security Service. Contacts have, however, taken place between these services. A chronic shortage of administrative staff and analysts, together with the lack of computer specialists in the context of the work of the intelligence services is, however, an obstacle to the development of this resource and to collaboration between the services in this field.

## § 22 CONCLUSION

It is the opinion of the Committee that the effectiveness of the intelligence services depends at one and the same time on :

- a clear definition of their future tasks and a responsible choice as to their objectives, while their activities necessarily take place in both a national and international context;
- the possibility of legal use, but subject to control, of certain special methods of intelligence research;
- the granting of a budget which will enable the services to accomplish the tasks assigned to them;

- their being provided with sufficient qualified personnel with a guaranteed status;
- a structure and organization appropriate to the current tasks of the services;
- a reasonable and appropriate definition of secrecy (professional secrecy, secrecy of sources, secrecy of information etc.);
- coordination of the activities of the intelligence services and effective collaboration between these services and the police.

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