



BELGIAN SENATE



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M. Peter De Smet  
Board member of the Belgian Standing Committee I

### *Experientia mutua omnibus prodest* or mutual experience benefits all

#### On the establishment of a European Intelligence Review Agencies Knowledge Centre

*‘Experientia mutua omnibus prodest’*. ‘Mutual experience benefits all’. With that old proverb in mind, the Standing Committee I, with complete backing from its Senatorial parliamentary monitoring committee, took the first cautious steps towards establishing what is intended to become a ‘European knowledge centre for parliamentary bodies that exercise oversight of the intelligence and security services’.

As the President *of the Senate* just stated, the idea is not novel. I will not go over the same ground again. However, what is new is that today we will try to visualise this idea. So this morning, it is an honour for me to invite you on a virtual tour. But unlike the presentations by Mr. Steve Jobs of the Apple Store, today I stand before you with an unfinished product. A so-called ‘work in progress’. However, we did want to produce a blueprint. As they say, a picture is worth a thousand words.

In the next half hour, I would like to tell you about what this knowledge centre could look like, what the aim and purpose ought to be, but also which pitfalls could potentially arise. I would also like to emphasise, as the President *of the Senate* did earlier, that this is in no way a ‘take it or leave it’ proposal. Actually, it is a draft version, although it has been carefully thought out.

I propose to give the integral presentation first, after which all delegations will be invited to give their views on this initiative.

Ladies and gentlemen,

It's an understatement that exercising oversight of intelligence services is no easy task. I don't need to convince you of that. Democratic oversight in this field is a rather recent phenomenon. Furthermore, intelligence work – unlike the democratic oversight of that work – has a pronounced international character. Not even two years ago, our German colleague Dr. Hans de With, present here today, stated at the Lisbon Conference: *“it is obvious that, while increasing international cooperation between our intelligence services is in the interests of our security, it also presents certain dangers, since it may allow circumvention of national restrictions on intelligence activities. The first step needed to react to this challenge is to gain information about the national systems of oversight of the intelligence services”*. Unquote. Afterwards, he went on to give an interesting presentation of the German system of oversight of the intelligence and security services.

That is also our prime aim. Presenting one's own oversight body always provides interesting material for discussion. However, the Belgian delegation feels that the time is right to establish closer contacts between the oversight bodies and this on a permanent basis.

The question was in what way we can put those closer and more permanent contacts into practice. The annual meetings like the one we are at today are both agreeable and most interesting, but they do have their limitations. The establishment of a knowledge centre, embodied by a joint website, would offer rather more possibilities.

The home page of such a website might look as follows.

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As with all births, this child also needs a name. We have provisionally named it EIRAK, an acronym which stands for *European Intelligence Review Agencies Knowledge Centre* but also easy to remember these days due to a phonetical coincidence.

Of course, the home page is the starting point for using this website. As you see, our draft website is divided in a component accessible for the public and a password protected (*members only*) website. I will start by explaining the component accessible for the public.

From the home page you can open various 'doors'. For example, you can click on the 'ABOUT EIRAK' tab. That offers me the opportunity to explain a number of initial assumptions.

'ABOUT EIRAK' includes five sub-tabs, which are 'Origins', 'Aims', 'Structures', 'Members' and finally 'Statutes'. These contain general information about the knowledge centre. As stated earlier, we shall not spend any time on 'Origins'. Instead, lets click on 'Aims'.

[tweede slide]

What could be the aim and purpose of such a knowledge centre? In the view of the Belgian delegation, the primary purpose of the creation of a knowledge centre is the exchange of information and best practices, thereby contributing to more thorough oversight. Concepts like expertise, neutrality and objectivity will have to be key considerations here.

The Knowledge Centre should focus on the exchange of information and expertise among the various members – and, this is particularly important – it should be on a completely voluntary basis. This initiative does not have the ambition to serve as an instrument for defending collective interests, nor entail joint investigations or the exchange of operational or classified information. However,

- a) it can contribute to the further development of the specialist field (through the provision of documentary information via annual reports, research reports, legislation, case law, best practices, announcement of conferences, etc.);
- b) it can develop and promote expertise in the field, and hence stimulate the professionalization of bodies exercising review;
- c) it can facilitate comparative (legal) studies
- d) and, finally, it can even serve as a sounding-board and discussion forum. I shall come back to this later.

After ‘AIMS’, we can also find information about the ‘MEMBERS’. What brings me to the question: ‘Who can be part of this network?’ In the Belgian proposal, the knowledge centre consists of acceding parliamentary authorities or bodies which directly depend on the legislature and which have been set up or instituted with a view to exercising oversight over the intelligence and security services. In our view, membership of the Knowledge Centre is not open to bodies which form part of the judiciary or the executive, the intelligence services themselves and their internal review bodies, the press or academics. A more delicate point will be whether or not to allow review bodies which only have marginal or indirect competence with regard to overseeing intelligence services. We shall also come back to this later.

Besides a ‘content-related’ demarcation, there will also be a ‘geographical’ one. The oversight bodies of the EU countries are admitted, while preferential contacts might also be considered with similar bodies from friendly countries, such as already Norway and Switzerland.

If this option is adopted, then Belgium, for example, as an EU Member State (bearing in mind the geographical demarcation) could participate in the EIRAK, by means of two institutions, i.e. the parliamentary monitoring committee of the Senate and the Standing Intelligence Agencies Review Committee (bearing in mind the content-related demarcation).

On the other hand, the two Belgian intelligence services could not form part of the network. And although the Privacy Commission and the Federal Ombudsman report to the legislature and could be faced with complaints about intelligence services, we would opt not to include them as members. For both, they have rather limited powers, and the cases involved are just a few each year. This example should make it clear that each individual parliamentary assembly must decide for itself which institutions it should allow as members of the Knowledge Centre.

That leaves the sub-tabs ‘Structures’ and ‘Statutes’. As for statutes, it is still too early: only when everyone is singing from the same song-sheet will it be time to work on common statutes.

As far as the ‘administrative structures’ are concerned, we can refer to a similar and successful initiative, created in 1977 in Vienna by the Conference of the Speakers of European Parliamentary Assemblies, the so-called ‘European Centre for Parliamentary Research and Documentation’. There, in addition to an annual meeting, (which could, as far as we are concerned, happen in the context of the present conferences), there is an Executive Committee (in order to ensure the continuity of work between annual meetings), chaired by an alternating Director.

But someone also has to do the spade-work. Each member assembly (or country) has to appoint a senior official to act as the ‘Correspondent’ for the assembly. The Correspondent is the privileged point of contact for the assembly and should be in a position to coordinate the contribution of his or her country. The success of the Knowledge Centre largely depends on the input provided by the Correspondents.

[derde slide]

Let us return to the home page, and look at another tool, the ‘PARLIAMENTARY INTELLIGENCE REVIEW THROUGHOUT EUROPE’.

This brings us to a map of Europe, and to our actual objective: provide each member with accurate, complete and up-to-date information about the national systems of oversight of the intelligence services.

From here, you can scroll to the country of your choice. Why not Belgium, for example.

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The idea is that for all participating countries, using a uniform, recurring structure, parliamentary oversight of intelligence services can be set out and explained.

In doing this, the following items could be covered:

- a) The – in casu Belgian – Intelligence and Security Landscape
- b) Intelligence Review in Belgium
- c) Who’s who in Belgium?
- d) Belgian publications
- e) Contact

This allows you to receive in-a-nutshell information about the Belgian intelligence and security landscape. (How many intelligence services does Belgium have and what are their tasks, powers and responsibilities? Is there a Coordination Unit for Threat Analysis in Belgium? Who is responsible for developing the policy on intelligence ? And so on.)

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If we click, for example, on ‘Intelligence Review in Belgium’, we find out that in Belgium, two bodies are in charge of parliamentary intelligence review: a Senatorial Commission responsible for supervising the Standing Committee I, and the Standing Intelligence Agencies Review Committee itself. But you will also read about the powers and responsibilities of this commission and committee, whether they oversee legality as well as effectiveness, whether there are other (non-parliamentary) institutions that are charged with oversight of intelligence work and so on.

Like I’ve already mentioned, you will also find a ‘Who’s Who’ and where you can contact the Belgian oversight authorities, in addition to an overview of the most recent publications, such as the activity reports or other publications on which the oversight body concerned has cooperated.

Let’s go back to the home page.

[zesde slide]

The homepage also provides access to the ‘Review Regulation Database’. After all, it seems that we have too little knowledge about each other’s legal basis and prevailing legislation and regulation. Here too, there is a map of Europe, on which you can scroll to the EU Member State of your choice, and find more legal information about the oversight of the intelligence services in this country. You will receive a brief introduction to the current legislation and regulation, and if you want, you can download the text in PDF format. We could even consider a section on relevant case law. There are plenty of options.

[zevende slide]

Again back to the home page.

Here, we have picked another important option. The Knowledge Centre contains an area accessible to the public in which, for example, information is also provided to interested third parties such as academics, members of the public, etc. This is the section that we have just been discussing.

[achtste slide]

In addition, it takes the form of a password-protected (*members-only*) website. You have to register in order to gain access, which entitles you to a login name and password. In this section, you can find information that is only intended for the respective members. For example, the organisation of a colloquium or seminar which is not open to outsiders, or the announcement of internal publications, studies or reports.

The ‘Request for information’ section is even more interesting. Just imagine that as an oversight body, you have to carry out a particular supervisory task with an international angle. At that time, you would be able to issue a request for information to other oversight bodies. I would like to illustrate this with a concrete example.

As in many other European Member States, the Belgian oversight body was charged with investigating the potential role of the national intelligence services in the context of renditions flights or the transfer of bank details by SWIFT. For our oversight body, it would be interesting to find out which other European countries are still running investigations. Or to find out about the prevailing legislation and regulation in this specific field: for example, how is the work of foreign intelligence services with activities in our country monitored? And so on.

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One last time back to the home page, where you can see a number of more general sections, such as 'Library', with a list of references to all relevant literature that has ever been published in relation to the oversight of intelligence services in the broad sense of the term – a sort of specialised European library, as it were. A number of Frequently Asked Questions and a 'What's new?' section could also be included.

Ladies and Gentlemen,

You know better than anyone that exercising oversight of the intelligence and security services is quite complex. But although 'who supervises what and how' varies from country to country, there is common ground as well, both in theoretical and practical terms. The creation of a knowledge centre, with the prime concern of exchanging best practices or specific information, can, in our opinion, contribute to more thorough oversight and enhance the democratic strength of our society.

The Standing Committee I has, where possible, already submitted this idea informally to a limited number of other parliamentary oversight bodies. The feedback has been mostly positive. But to increase the chances of success, we need to start with an accessible solution.

The Belgian delegation will continue to invest in the creation of such a knowledge centre. But of course, there are many unresolved questions.

- a) First of all, there is a price tag, even if in our opinion, costs would be limited to the start-up phase. Are the various participating countries willing to co-finance such an initiative? Or should we look to possible financing from the European Parliament, for example?
- b) Will English be the working language? Or should other European languages be added, which naturally has repercussions in terms of availability and cost?
- c) Where should the line be drawn between what should be accessible to the public, and what should be reserved for the members-only area?
- d) Who can be allowed as a member of the knowledge centre, in terms of content-related and geographical demarcation?
- e) Do we involve scientific experts such as the representatives of the DCAF or university professors when establishing and carrying out this initiative?
- f) Can a rather select working group be mandated to handle the preparation of this initiative and if so, who would be prepared to do this?

Ladies and gentlemen,

As you have heard, there is a lot of work ahead! In doing that work, we must bear one aim in mind: better democratic oversight of the operation of the intelligence and security services. Although the various oversight bodies always endeavour to show the utmost professionalism in carrying out their role, we strongly believe that this knowledge centre will provide added value for them. Foreign examples and solutions can definitely serve as an inspiration when carrying out our own core tasks. There will be a return on investment.

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