

Bundesversammlung

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Federal Assembly



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Intelligence Oversight in Switzerland

The Swiss Parliament entrusts its oversight over the national intelligence activities to a joint delegation of the Supervisory Control Committee of the National Council (House of Representatives) and the corresponding Committee of the Council of States (Senate). The Delegation comprises three members of the Council of States and the National Council each. As a rule it includes at least one Member of Parliament who does not belong to the parties which are represented in the Federal Council, i.e. the Swiss government.

The Intelligence Oversight Delegation was created by law in early 1992. At the origin of its creation was a domestic surveillance scandal which had been uncovered by a select parliamentary investigation committee. Among its conclusions was the necessity of a permanent parliamentary oversight body to supervise the activities of foreign and domestic intelligence (state security).

The Delegation supervises the activities of two services: the civilian Federal Intelligence Service, which is responsible for domestic and foreign intelligence, as well as the Military Intelligence Service, which works for the armed forces. Both services belong to the Ministry of Defence. Additionally, the Delegation supervises federal law enforcement activities in the realm of state security.

The Delegation has unrestricted access to all secret government information. This right is based on Article 169 of the Swiss Constitution, which stipulates that secret information cannot be withheld from any of the special delegations of the oversight committees established by law. Only two such parliamentary delegations exist, the other one being the Financial Delegation, which among other tasks deals with non-public aspects of the intelligence budget.

The Delegation can request information from all institutions that perform federal tasks and question their representatives, including the members of the Federal Council. It can also ask the Federal Council to provide documents that supported the decision making process in the Council itself, including the minutes of its meetings.

As the Federal Council was not obliged to make all documents pertaining to its decision making process available to the Supervisory Control Committees, they could ask the Delegation to investigate issues that were confidential and not accessible to them. Thus, the Delegation has been recurrently mandated to investigate the adequacy of the Federal Council decision making, e.g. concerning the bail-out of the Swiss bank UBS or the diplomatic crisis between Switzerland and Libya. In late 2011 the information rights of Supervisory Control Committees were strengthened. In parallel the Delegation responsibility was extended to all secret matters of state.



The members of the Delegation are obliged to keep the information they receive during their investigations confidential. The Delegation goes to great length to take the necessary measures to assure the necessary confidentiality in its work.

The Delegation examines the government activities primarily from the point view of their legality, expediency and effectiveness. Based on its findings, however, the Delegation has no right to change decisions made by the executive branch, but can only make recommendations. The responsibility for the activities of the intelligence services lies thus fully with the Federal Council and the Ministry in charge, which by law has to supervise the intelligence services on its own account. In fact, the foremost task of the delegation is to make sure, that the Federal Council abides by its own responsibilities for managing and controlling intelligence activities in accordance with the law.

Only when the Delegation has reason to believe that the intelligence services are not functioning according to the law or performing their task ineffectively, a proper investigation is launched. Such an investigation usually results in a report that is in most cases fully published.

In June 2010 the Delegation finished such a report as the result of two years of investigation into the electronic data processing for the purposes of domestic intelligence. In its report the delegation noted that following the introduction of a new database system, legal provisions for quality assurance had been systematically disregarded. In addition, the investigation found indications that part of the stored information was incorrect or irrelevant to state security.

In 2013 the Delegation published another report, which analysed the organizational and management shortcomings in the Federal Intelligence Service that had allowed a disgruntled IT-specialist to steal sensitive information from the services networks. The Delegation subsequently made several recommendations on how to improve the risk-management for the services' IT-systems.

Before publication of the findings of an investigation, the Delegation habitually consults the authority or service concerned in order to prevent the publication of information that would be harmful to national security. The Delegation usually goes to great lengths to accommodate the government's wishes to protect sensitive information, especially if the risks of a publication of such information are well explained. However in some cases, the Delegation may not agree with the government and deem it necessary that the parliament and the public in general are made aware of specific problems in den the intelligence services.

Especially in such cases it is important, that generally the Supervisory Control Committees of the National Council and the Council of States have the final say whether a report of their Delegation is going to be published. Furthermore, the Delegation and these two committees publish their annual report jointly, which is then reviewed in both chambers of Parliament.

The oversight Delegation has no budget powers and no formal role in intelligence legislation. Nevertheless, the delegation has regularly made recommendations to revise existing laws in order to address problems identified by its own investigations.

As a unique case, the Delegation decided in 2007 to propose a new intelligence law in order to reorganize domestic and foreign intelligence. After having witnessed for years the domestic and foreign intelligence services' inability to properly share information, the Delegation proposed to assign their tasks to a single Ministry to be performed under a common leadership. At the initiative of the President of the Delegation the text of the bill was introduced by the Supervisory Control Committee of the Council of State. It was adopted in October 2008 and went into force at the beginning of 2010.