

Rule No. 44 / 1998

on the Setting up, Organization and Functioning of the Special Parliamentary Commission for Overseeing the Foreign Intelligence Service (SIE)

The Parliament of Romania

The Chamber of Deputies

The Senate

On the basis of its control prerogatives, the Parliament of Romania, under provisions of Art.61, chapter (4) and Art.64 of the Romanian Constitution, along with Art.8, chapter (3) in Law no. 51 / 1991 regarding national security and under Art.3 of Law no. 1 / 1998 concerning the organization and functioning of the Foreign Intelligence Service,

The Parliament of Romania adopts the following rule:

CHAPTER I - GENERAL PROVISIONS

Art.1: On the date of the present rule, it was decided the setting up of the Special Parliamentary Commission for the oversight of the Foreign Intelligence Service.

The Special Parliamentary Commission for overseeing the activity of the Foreign Intelligence Service (SIE) that shall be called hereafter "the Commission", performs its mandate during the legislative mandate for which it was appointed and carries on its work according to the provisions of the current rule.

Art.2: After being elected, the Commission members take the following oath during a joint sitting of the two Houses of Parliament:

"I, -----, as member of the Special Commission for the oversight of the Foreign Intelligence Service, swear to uphold and defend Romania's interests and to respect the Constitution and the country's laws.

I swear that during my mandate, as well as after its expiry, I will keep the secrecy of the documents, data and intelligence information that I became acquainted with, while discharging my duties, which are considered as such by the law.

I swear, on my own responsibility, that I did not collaborate with the structures belonging to the former "Securitate" and I am not an officer of the Foreign Intelligence Service nor of any other intelligence service".

Art.3: The nominal membership of the Commission and its bureau is voted by observing the provisions of Art.32 in the Rules of the Senate and of Art.69 in the Rules of the House of Deputies (reprinted), during the joint plenary meeting of the Senate and the House of Deputies. The nominal membership of the Commission and its bureau is laid down in the Annexes no.1 and 2 which are integral part of the present rule.

Art.4: The provisions of Art.2 shall not be interpreted as meaning that the Commission is prevented from releasing to the public its decisions and conclusions whenever it has the agreement of the permanent bureaus of the two Houses of Parliament.

Art.5: The cessation of membership of the Commission for Defense, Law Enforcement and National Security entails the loss of membership of the Commission.

CHAPTER II - THE PREROGATIVES OF THE COMMISSION

Art.6: The Commission exercises a concrete, permanent control over the activity of the Foreign Intelligence Service and is authorized to:

a) analyze and check the respect of the Constitution and of Romania's laws by the Foreign Intelligence Service;

b) check if the orders, the instructions and other regulations, issued by the leadership of the Foreign Intelligence Service, conform to Romania's laws and Constitution, to the decisions of the Supreme Defence Council of the Country and of the Government which were taken with a view to enforcing the decisions of the Supreme Defence Council of the Country;

c) analyze the way in which the budget of the Foreign Intelligence Service is substantiated and check its execution on the basis of the checks conducted by the competent bodies;

d) hear the person nominated by Romania's President for the function of Director of SIE, on which it submits a consultative approval, which shall be sent to Romania's President. The Commission can submit to Romania's President, through a written report, the revoking from his post of the Director of SIE;

e) examine the cases when in the activity of SIE were signaled cases of breaches of the Constitution and other legal provisions and decide on the measures to be taken for enforcing the law;

f) analyze, verify and settle the complaints of citizens who think they have their legitimate rights and freedoms infringed upon, as a result of the actions undertaken by means of intelligence gathering for the national security and the defence of Romania's interests, by SIE. It examines and settles any other complaints and denunciations that are addressed to it, incriminating the breach of the law by the Foreign Intelligence Service;

g) verify the selection and promotion criteria of SIE's personnel;

h) check on the way Romania's interests are promoted and the way in which SIE's activities are directed, mainly, at targeting, assessing, keeping under control and eliminating the risks to national security;

i) check on the cooperation and interoperability degree between SIE and other institutions with responsibilities in the field of national security;

j) check the way of cooperation with similar foreign institutions;

k) endorse draft laws that deal with SIE's activity;

l) fulfill any other responsibility set through decisions of Romania's Parliament.

Art.7: While exercising the prerogatives incumbent on it, the Commission demands from SIE, through its Director, papers, data and information and may hear persons connected to the issues being analyzed.

Art.8: SIE must answer in due time to the Commission's requests and allow the hearing of the persons called by it, with the approval of the SIE's Director.

Art.9: Exempted from the provisions of articles 7 and 8 are the documents, the data and the intelligence connected with the operational actions connected to national security, which are under way or are to be carried out, considered as such by the Commission, on the recommendation of the Supreme Defence Council of the Country, as well as the intelligence information that can lead to uncovering the real identity of operational personnel, to identifying the sources of intelligence, the concrete working means and methods used in intelligence work to the extent in which they do not run counter to the Constitution and the legislation in force.

Art.10: On the request of the permanent bureaux of the two Houses or whenever it is deemed necessary, the Commission draws up and submits its report to them on the findings and conclusions resulting from the exercise of the prerogatives incumbent on it.

CHAPTER III - THE FUNCTIONING OF THE COMMISSION

Art.11: Demanding data and information necessary to the Commission, as well as any move in its relations with SIE is done by the Commission through its President.

Art.12: While exercising its prerogatives, the Commission may call on experts within SIE, nominated by its Director.

In order to carry out the prerogatives laid down in Art.6, letter c), the Commission may call on the expertise of specialists in the field, who are employed by the public authorities in the respective field.

The persons being used according to Art.2 shall sign a pledge by which they bind themselves to observe the legal regulations on defending state and service secrets and to protect the data and intelligence information they get acquainted with.

Breaching the provisions of paragraph 3 is liable to civil disciplinary, contraventional or penal responsibility, as the case may be.

Art.13: The Commission may invite to its meetings the permanent bureaux of the two Houses, the Presidents of the Commissions for Defence, Law Enforcement and National Security, members of the Supreme Defence Council of the Country, as well as other persons.

Art.14: While exercising the prerogatives it has been empowered with through the present rule, the Commission passes decisions through majority vote of its members.

Art.15: The works and the decisions of the Commission constitute state secrets, if they are considered by law as such, except the conclusions contained

in its reports, which are authorized to be released to the public by the permanent bureaux of the two Houses.

The Commission members have the obligation to observe the legal provisions regarding the defence of state secrets connected with all documents, data and intelligence information that they get acquainted with, while exercising their prerogatives, by ensuring their full protection according to the laws in force.

Non-observance of the provisions of chapters 1 and 2 may attract, according to the Rules of the two Chambers, the suspension from being a member of the Commission until the case is definitively settled, depriving of parliamentary immunity and instituting criminal proceedings against him / her according to the provisions of the law.

Art.16: The cases of breaching the provisions of Art.2 and 15, according to the provisions of its own programme for protection against intelligence leaking, shall be investigated by the Juridical, Disciplinary and Immunities Commission of the Chamber of Deputies, respectively by the Juridical, Appointments, Disciplinary and Validations Commission of the Senate, as the case may be, which will submit to the permanent bureaux of the two Houses, the conclusions and measures that need to be taken.

Art.17: The president who chairs over proceedings of the joint meetings of the two Chambers, in which issues are being discussed pertaining to the Commission competence, may demand, from office, on the request of a parliamentary group, of the President of Commission and of SIE's Director, that the respective proceedings should take place in secret session. Such a decision shall be taken by the majority vote of the deputies and senators present.

CHAPTER IV - FINAL PROVISIONS

Art.18: The permanent bureaux of the two Chambers, through their general secretaries, shall ensure the spaces, personnel, office equipment and logistics necessary for the good carrying on of the Commission's work.

Art.19: The documents of the Commission shall be preserved in its own archives, by observing the legal provisions regarding the defence of state secrets. At the end of the legislature, the Commission's documents shall be inventoried and sealed under the supervision of its members and shall be handed in, on the basis of a minute, to the Commission designated by the new Parliament together with the documents taken over from the previous Commission, according to the Rules for the functioning of the Commission.

Art.20: The dispositions of the present rule shall be completed with the provisions of the Rules of the two Houses, as well as with those of the Rules for joint meetings of the two Houses, to the extent in which their provisions are not diverging.

Art.21: While exercising the prerogatives incumbent on it, according to the provisions of the current rule, the Commission shall draw up and submit for approval to the permanent bureaux of the two Houses its own Rules of Functioning.

Art.22: Upon the coming into force of the present rule, the Decision no 13 of June, 3, 1998 of the Parliament of Romania shall be abolished, as it was published in the Official Gazette of Romania, Part I, no.214 of June 10, 1998.

This rule was adopted by the Chamber of Deputies and by the Senate in the joint meeting on October 28, 1998, by observing the provisions of Art.74, Chapter (2) in Romania's Constitution.