

Dissenting opinion to the final report of the Committee of Investigation to Ascertain the Circumstances related to the Export of Military Equipment from the Territory of the Republic of Estonia on the Ferry Estonia in 1994.

Tallinn, 19 December 2006

The dissenting opinion pertains to chapters VI and VII of the report, i.e. the conclusion and proposals to the Government of the Republic. I also draw the attention to the fact that the committee in organising of its work has unfortunately deemed it unnecessary to evaluate the circumstances which became evident as a result of the work of the committee. The mentioned responsibility is, however, given by the functions of the committee based on the resolution of the Riigikogu and the authority of the committee.

The secret information gathered during the work of the committee is protected in accordance with acts regulating the state secrets. The member of the Riigikogu has a right to access state secrets pursuant to the act, which also regulates the duty of keeping and protecting the secret information, which has been made known to the MP. Therefore, deliberate withholding of the pertinent information and lying to the committee by the officials, who were interviewed is neither legal nor justified. The question is whether anyone knew and who knew and assisted in the transport of the military equipment from Estonia to Sweden, as well as how to evaluate these activities:

1. The first parts of the final report of committee dealt with the issue of whether transport of military equipment on September 14 and 20, 1994 on Ferry Estonia can be considered smuggling operation. The lengthy analysis was undertaken on how should the transport of the equipment categorised as strategic goods been organised in compliance with public order of Estonia. The committee also notes, referring to the interviewed experts that „professional intelligence service would not have transported sensitive technology with military purpose on a civil vessel and undeclared. Therefore, the committee has to express its position on this issue in order to evaluate the corresponding of the named activity to the interests of the Republic of Estonia. Violating the Estonian laws, endangering the passengers on board the civic ship and private activities of the officials in assisting to profiteer the military equipment cannot be considered in the interests of the Republic of Estonia. Furthermore, the committee should have noted in its conclusions before December 13, 2006, that the Estonian side was not aware and did not participate in organising the transport, because the statement of the former chief of Swedish intelligence that the cooperation was official and carried out upon the request of the Estonian side and that Estonia received the memo on the content of the transported goods, did not find confirmation through the evidence gathered during the work of the committee.

Estonia, being an independent state, had a possibility in 1994 to cooperate officially based on acts and its national security interests. The cooperation agreement between Estonia and Kingdom of Sweden existed and was used in practice. However, the committee cannot confirm, based on gathered information that on the dates mentioned the transport of the military equipment was within the framework of the agreement, which even further supports the earlier opinion of the committee that the transport was a smuggling operation, i.e. illegal activity.

2. The information, which surfaced during the meeting of the committee of December 13, 2006, single-mindedly disproves the statement of the committee deemed correct at that time, that the Estonian side had no information whatsoever about the transport of military equipment during the mentioned period of time. Thus, such conclusions could not have been included in the final report. Namely, a member of the committee, Mr. Trivimi Velliste of the Union of the Pro Patria and Res Publica, stated that he as a member of the Government at that time knew of the mentioned military equipment transport. Mr. Velliste also said that the conclusion of the committee that the high Estonian officials interviewed were not aware of the transport of the military equipment (oral interviews and written statements confirming that) was not correct. „The statement that Estonian leaders, who have come to give testimony and said that they did not know, is simply not true”. The statement is not true, said Mr. Velliste.

3. The experts advising the committee have doubted that it was just the intelligence operation; attention should also be drawn to the fact that even if Estonia, according to statements of one side, participated „officially” in the intelligence operation and yet according to the earlier conclusion of the committee „did not know about and did not participate in organising the transport of the military equipment, and also the issue much deliberated in the committee whether it was the export of intelligence or strategic goods, then the Republic of Estonia cannot, without leaving a trace, conduct intelligence operations on its own territory and to that aim legally transfer state-owned assets, which were left behind by the departed Russian Federation military. The contradiction lies on one hand in Estonian side participating and knowing and on the other hand that there is no trace of the assets transfer; thus we arrive at the conclusion that it was the smuggling operation, accepted at the national level. To avoid the situation, legal acts on export of strategic goods should have been complied with. To claim that it was intelligence operation in the interests of Estonia is doubtful, because cooperation to conduct surveillance of the officially state-owned assets is simply not possible. The last conclusion is based on the so-called July agreements, pursuant to which the military equipment left behind by the departing troops, belonged to the Republic of Estonia and official transfer was possible and proceeded from interests of Estonian national security; however, Estonian government agencies lack oral or written evidence on that issue. Based on above-said, I find that the committee should have eliminated the contradictions in its final conclusions and give a unified evaluation. The following proposals should have been included in proposals made to the Government of the Republic:

1. To make an inquiry to the Kingdom of Sweden regarding the identification of the persons on the Estonian side who participated in transport of military equipment, and an

overview as to the content of the transported goods. The requirement to involve Estonian side is neither sufficient nor pertinent. In lieu of circumstances, the Parliament of Estonia should provide the Government with the clear guidelines to initiate new investigative procedures.

2. To make a proposal to the Kingdom of Sweden and Republic of Finland to review the so-called „grave peace agreement” and form a new international investigation committee to conduct new investigative activities; with the objective of checking the conclusions of the final report of the international investigation committee in lieu of new circumstances and gather new evidence from the wreck.

3. To organise financial support in joint activity of the relatives of those perished on the ferry in order to get legal assistance in processing claims submitted to various international courts.

4. To open a new criminal investigation to identify the persons whose direct or indirect activity or inactivity in connection with secret transport of military equipment led to catastrophe with the large number of victims. Since various investigations have not studied the issue of the content of the transported goods, and referral to the transport of military equipment and the way it affected the partiality of investigation is clear, it cannot be said that without investigating the content of the transported goods, the criminal proceedings ended due to lack of evidence and the necessary elements of a criminal offence.

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