

REPORT

of the expert committee investigating the circumstances of the transport of military equipment on the passenger ferry *Estonia* in September 1994

1. Background

On 30 November 2004, the programme *Uppdrag granskning* of the Swedish public television (SVT1) revealed information indicating that military equipment was present on board the passenger ferry *Estonia* that arrived in Stockholm on 14 and 20 September 1994. After that, on 3 December 2004, the government of the Kingdom of Sweden assigned Johan Hirschfeldt, President of the Court of Appeal, the task to investigate the veracity of the information disclosed in the television programme. Hirschfeldt presented his investigation results as a public memorandum on 21 January 2005. In the memorandum, Hirschfeldt states that the Swedish Defence Forces (*Försvarsmakten*) indeed transported military equipment on the passenger ferry *Estonia* on two occasions, on 14 and 20 September. These were electronic equipment that are not related to weapons and did not contain any explosive parts, whatsoever.

Triggered by the results of the Swedish investigation, the Government of the Republic of Estonia issued Order No. 129 on 7 March 2005 to set up an expert committee to investigate the circumstances of the transport of military equipment on the passenger ferry *Estonia* in September 1994.

The committee was given the task of keeping in mind the results of the “Investigation on the transport of defence material on M/S *Estonia*” conducted under the decision of the government of the Kingdom of Sweden of 3 December 2004, and to answer the following questions:

- 1) Was military equipment transported on the passenger ferry *Estonia* on its journeys from Tallinn to Stockholm on 14 and 20 of September 1994 in coordination or in cooperation with the Estonian authorities?
- 2) If the cooperation mentioned in question 1 occurred, which authorities and/or officials were involved, and what agreements was the cooperation based on?
- 3) Was such cooperation allowed or not under the Estonian legislation in force at the time of entry into the agreements referred to in question 2 and at the time of the transport?
- 4) How was military equipment placed on board the passenger ferry *Estonia* on the journeys to Stockholm on 14 and 20 September 1994?
- 5) Are there grounds to assert that the military equipment transported by the passenger ferry *Estonia* was electronic equipment that did not contain explosives and were not parts of weapons systems?
- 6) Are there grounds to assert the position stated in the report of the Swedish “Investigation on the transport of defence material on M/S *Estonia*” that no military equipment or

materials were transported on the passenger ferry *Estonia* that departed Tallinn on 27 September 1994?

Leading Public Prosecutor Margus Kurm was appointed the chairman of the expert committee and Senior Public Prosecutor Kristel Siitam-Nyiri, an official nominated by the director general of the Security Police and an official nominated by the director general of the Information Board, were appointed as its members.

2. Conduct of the investigation

The committee conducted the following investigative activities:

- 1) it reviewed the translation of the memorandum of Hirschfeldt's investigation and a recording of the television programme *Uppdrag granskning* which had triggered the investigation; reviewed also was a recording of the Swedish television (SVT2) news programme *Rapport* from 19 December 2004 on the same topic, in which Colonel Urmas Roosimägi spoke;
- 2) it examined the letters the relevant Estonian ministries and state agencies sent to the State Chancellery in execution of the Government of the Republic cabinet decision of 9 December 2004. The cabinet meeting discussed the implications for Estonia from the above information disclosed in the Swedish media;
- 3) it met twice, with Helena Lindberg, Vice Secretary General of the Ministry of Defence of the Kingdom of Sweden, and Ambassador Bo Eriksson, Government's Intelligence Coordinator, and once with Johan Hirschfeldt, President of the Court of Appeal, who had carried out the investigation. The chairman of the committee also visited the Psychological Defence Agency (*Styrelsen för psykologiskt försvar*) under the Swedish Ministry of Defence, which had the task of collecting, systematising and publishing the materials of the *Estonia* shipwreck;
- 4) it catalogued the materials collected in the course of the investigation of the *Estonia* shipwreck by making pertinent inquiries to the relevant ministries and state agencies and examined the materials from among these that could contain information relevant to the investigative task. The file of the criminal matter instituted for the investigation of the *Estonia* shipwreck, which is stored in the Police Board archive, was thoroughly studied, along with the materials stored in the Security Police Board, Customs Board and Border Guard Administration;
- 5) it met with a total of 23 persons who were holding various responsible or operative positions in September 1994. Among others, the chairman of the committee interviewed the following persons (their positions are listed as of September 1994): Director General of the Security Police Board Jüri Pihl, Director of the Information Service Ants Frosch, Director of the Government Department of Communications Jaak Lippmaa, Director General of the Customs Board Rein Talvik, Director General of the Border Guard Administration Vice Admiral Tarmo Kõuts, and Commander of the Defence Forces General Aleksander Einseln. The chairman of the committee also interviewed the persons who worked at the Tallinn passenger port on 27 September 1994 and personally witnessed the loading and departure from the port of the passenger ferry *Estonia* ;

- 6) it reviewed the final report of the international investigative committee that studied the *Estonia* shipwreck and all the books written and published in Estonian about the shipwreck.

When conducting the investigation, it has to be kept in mind that according to § 22 (2) of the Government of the Republic Act and item 4 of the Government of the Republic order by which the investigation was launched, the committee had the right to obtain information and documents only from state and local government bodies. The committee had no right to request information from private individuals or to warn anyone against false testimony, let alone the possibility of carrying out the investigative and surveillance activities of criminal proceedings. All persons not in public service were interviewed by the committee only with the consent of such persons.

The investigation was also largely influenced by the fact that more than ten years have passed from the events being investigated, which is why several persons interviewed were not able to recall details of the events.

When reading this report, it should also be kept in mind that the detailed information received from the Swedish authorities regarding the transport of military equipment on 14 and 20 of September is a state secret of the Kingdom of Sweden, which the chairman of the committee is not authorised to publish pursuant to § 12¹ of the State Secrets Act.

3. Results

The investigation results are presented as answers to each of the questions asked by the Government of the Republic.

1) 1) Was military equipment transported on the passenger ferry Estonia on its journeys from Tallinn to Stockholm on 14 and 20 of September 1994 in coordination or in cooperation with the Estonian authorities?

The transport of military equipment, which Judge Hirschfeldt has in mind and confirms in his investigation, was not subject to cooperation with any authorities of the Republic of Estonia. Neither is there any evidence to confirm that any Estonian authority was aware of such transport. The committee cannot fully exclude the possibility that somebody was unofficially cooperating with the Swedish intelligence agencies. If there was unofficial cooperation, it may constitute illicit trafficking within the meaning of § 76 (2) of the Criminal Code. The limitation period of such an offence has expired by now.

2) If the cooperation mentioned in question 1 occurred, which authorities and/or officials were involved and what agreements was the cooperation based on?

3) Was such cooperation allowed or not under the Estonian legislation in force at the time of entry into the agreements referred to in question 2 and at the time of the transport?

Since the transport was not subject to cooperation with any Estonian authorities, questions 2 and 3 cannot be answered.

4) How were military equipment placed on board the passenger ferry Estonia on the journeys to Stockholm on 14 and 20 September 1994?

The transport of military equipment confirmed by Hirschfeldt's investigation was an operation of the Swedish intelligence service, the details of which are the state secret of the Kingdom of Sweden and cannot be disclosed in this report. The chairman of the committee can assure on the basis of the information received from the Swedish officials that the equipment was transported in a manner that did not pose any danger to the passengers or the security of the Republic of Estonia.

5) Are there grounds to assert that the military equipment transported by the passenger ferry Estonia was electronic equipment that did not contain explosives and were not parts of weapons systems?

The chairman of the committee can confirm, on the basis of the information received from the Swedish officials, that the military equipment transported on 14 and 20 of September, which Hirschfeldt has in mind and confirms in his investigation, did not contain any explosives and were not parts of weapons systems.

6) Are there grounds to assert the position stated in the report of the Swedish "Investigation on the transport of defence material on M/S Estonia" that no military equipment or materials were transported on the passenger ferry Estonia that departed Tallinn on 27 September 1994?

First of all, it should be noted that in his report, Hirschfeldt only stated that he had no grounds to suggest that the Swedish Defence Forces or the Defence Forces' Materials Authority (*Försvarets materielverk*) transported military equipment on the passenger ferry *Estonia* at the time of the shipwreck. Hirschfeldt has not taken a position as regards other Swedish authorities, other states or illicit trafficking.

The committee had no evidence at its disposal that could refute Hirschfeldt's claim. Neither does the committee have any evidence that anyone else transported military equipment on the passenger ferry *Estonia* on the night of the shipwreck.

It should be noted that the cargo has not been given enough attention in the course of the shipwreck investigation. Although hints on the transport of military equipment and other smuggled goods were given after the accident, the criminal file, surveillance file and other collected materials do not indicate that these hints were checked with a sufficient degree of care. The lack of thorough investigation is also confirmed by the fact that the investigating officials never interviewed the persons who worked in the Tallinn passenger terminal on the evening of 27 September and witnessed the loading and departure of the ship.

The committee's own possibilities to investigate the subject ten years after the event were extremely limited. As stated, the committee had no right to request information from private individuals or warn anyone against false testimony, let alone carry out the investigation and surveillance activities related to criminal proceedings.

Considering this, the committee cannot confirm or refute the general argument contained in the government's questions that no military equipment or materials were transported on board the passenger ferry *Estonia* that departed Tallinn on 27 September 1994.

Tallinn, 31 august 2005

Margus Kurm

Chairman of the Committee
Leading Public Prosecutor