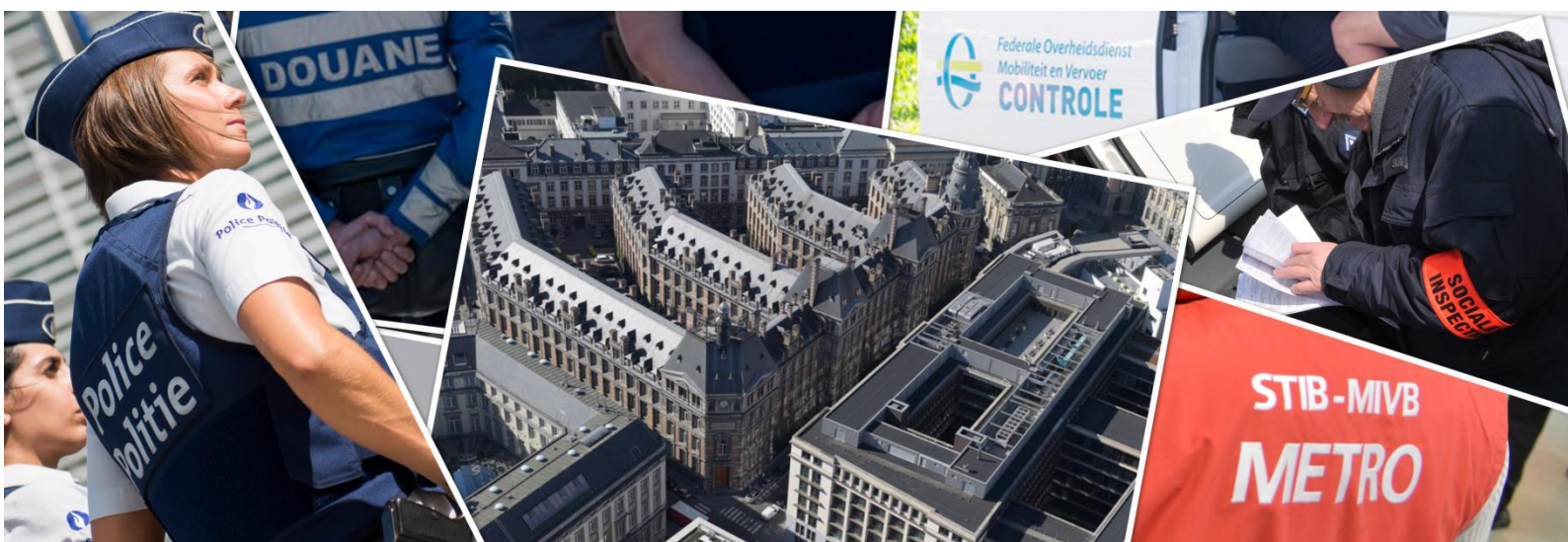


WATCHDOG OF THE POLICE SERVICES

INFORMATION BROCHURE



THE STANDING POLICE MONITORING COMMITTEE



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1. Foreword

Arising from the Federal Parliament's calls for an external oversight body covering all officials with policing powers, the Standing Police Monitoring Committee, or Committee P for short, was founded in 1991 and began de facto operations in mid-1993. Over the years, the general public have become familiar with this body, as can be seen by the large number of complaints it receives each year.

By examining these complaints, conducting inspection inquiries and drawing on information from a variety of sources, Committee P has a pretty reasonably accurate picture of the state of policing at any given time. Particular emphasis is placed on the coordination, efficiency and effectiveness of the federal and local police services, special inspection services and various officials with policing powers in other entities. There is also a systematic focus on how these parties safeguard citizens' rights and freedoms.

Driven by its ongoing commitment to promoting the effective operation of a democratic, principled and (in the broad sense) community-oriented police, since its creation Committee P has also given substance to various additional duties conferred by the legislature, such as monitoring public transport companies' security services and security officers, monitoring the operation of the Coordination Unit for Threat Assessment (CUTA), monitoring the processing of personal data by CUTA and its processors as a data protection authority together with Standing Committee I and investigating reports of alleged integrity violations within the integrated police committed by police officers made by staff members of the integrated police.

The fact that Committee P reports to Parliament distinguishes it from other oversight bodies focusing more on inspection duties and reporting to the executive branch, such as the General Inspectorate of the Federal and Local Police, inspection bodies and internal oversight bodies. However, being an autonomous body (albeit under parliamentary supervision) does not stop Committee P liaising closely with the authorities and the many stakeholders involved, with this occasionally even leading to a memorandum of understanding (MoU) with them.

As an external oversight body, Committee P also provides a first port of call for international authorities monitoring respect for human rights and the protection of citizens' fundamental rights.

Committee P can only perform its mission if all the parties involved cooperate fully and meet their obligations, pursuant to the Organic Law of 18 July 1991, in particular with regard to the ex-officio communication of disclosed information.

Our aim – which we hope to have achieved – in compiling this brochure was to set out the objectives, history, organisation and modus operandi of Committee P.

We hope we have succeeded in this endeavor. Happy reading!

2. Our History

Committee P's history has been marked by seven key milestones.

2.1 The Conclusions of the Commission of Inquiry into the Brabant Killings

The May 1988 parliamentary commission of inquiry into the approach taken to tackling organised crime and terrorism (or the 'first commission of inquiry into the Brabant killings' for short) drew a number of conclusions regarding monitoring of the police:

"[...] An external body with the task of monitoring all those with policing powers should be established, as internal oversight has been found wanting. [...] This oversight body would have a supervisory role rather than any disciplinary function. In other words, it would be in charge of monitoring how police duties are performed and should report regularly to the Government and to Parliament"¹.

The commission of inquiry's report also painted a picture of a dysfunctional police due to various factors including:

- high levels of mistrust and a lack of solidarity among investigators and between the police and the magistracy;
- rivalry between police services, exacerbated by differing statuses, recruitment procedures, training measures and fields of activity;
- poor coordination between police services;
- the undemocratic nature of aspects of some policing methods;
- significant issues relating to the management of investigations;
- overlaps between the powers of various police services.

2.2 Pentecost Plan I and the Promulgation of the Organic Law of 18 July 1991

Following up on the report of the commission of inquiry mentioned above, a Government press release issued on 5 June 1990 set out a programme covering policing, citizen security and the fight against crime, better known as 'Pentecost Plan I'.

This presented various action points:

- tackling structural, institutional and mentality issues;
- striving to safeguard and respect democratic rights and freedoms so as to provide transparency and efficiency, and stressing the responsibility of all the stakeholders involved in policing;
- focusing on qualitative rather than quantitative aspects.

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¹ Free translation of a passage from *Parliamentary Documents, Chamber of Representatives, 1989-1990, no. 59/8, p. 367 (in Dutch and French)*.

At the heart of Pentecost Plan I are the following issues: the coordination of policing policy, changes to criminal policy, structural adjustments to the operation of the police and intelligence services, and the implementation of the Policing Act.

Pursuant to Pentecost Plan I, in 1991 the Government came up with a proposed arrangement for monitoring the police. This was designed to meet three key objectives:

- respect for citizens' constitutional rights and their fundamental rights and freedoms;
- effectiveness (and efficiency);
- coordination of the various police services.

At sittings on 27 and 28 February and 12 and 13 July 1991, the two legislative chambers adopted the Organic Law on monitoring police services and intelligence services, which was then signed by the King on 18 July 1991 and published in the Belgian Official Gazette on 26 July 1991. This Organic Law has been amended on a number of occasions in the intervening years.

2.3 Extension of Powers in 1998

In 1998, the Government decided to establish a collegiate body to examine appeals against security clearances (i.e. official authorisations to access confidential data) being granted or withheld. The then Government considered it vital that the Chair or another member of Standing Committee P be part of this body, known as the 'Appeal Body for Security Clearances', and therefore the Chair of Committee P was appointed to sit on this body along with the Chair of the Standing Intelligence Agencies Review Committee (Committee I) and the President of the Commission for the Protection of Privacy (also known as the 'Privacy Commission').

2.4 Extension of Powers in 2004-2005

The Programme Law of 27 December 2004 conferred on Standing Committee P a whole range of other monitoring powers relating to the supervision of security services and security officers performing their duties for a State-owned public transport company (SNCB/NMBS, STIB/MIVB, TEC, De Lijn), based on an amendment to the Law of 10 April 1990 regulating private and personal security, recently repealed by the Law of 2 October 2017 regulating private and personal security, which reaffirmed Committee P's competence to exercise oversight over the above-mentioned services and officers.

The term 'police services' covers the federal police, local police services, the special inspection services and the security services used by a public transport company. It is in this broad sense that the term is to be understood throughout this brochure.

In 2005, the legislature decided to extend the rules on security clearances to security certificates and advice, resulting in the appeal body being granted the same adjudication powers with regard to any authorisation, or refusal, to issue any such certificate or

advice. These documents are required for access to certain premises, buildings or grounds or to take up very specific roles.

2.5 Extension of Powers in 2006

A decision was made when establishing the Coordination Unit for Threat Assessment (CUTA), a body responsible for evaluating the threat posed by terrorism and extremism, to place it under the joint supervision of Standing Committees P and I. This brand-new monitoring task covering a new body and a new domain was a direct result of the Threat Assessment Act of 10 July 2006². Since then the Organic Law has been called the "*Organic Law of 18 July 1991 on monitoring the police and intelligence services and the Coordination Unit for Threat Assessment*".

One key element in the functioning and constitution of the CUTA is the legal obligation for 'support services' to communicate to it, either ex officio or at the request of its director, any information which is available to them in the context of their duties laid down by law and which is relevant to the performance of its tasks.

The law of 10 July 2006 lists the said support services and also provides the possibility for the King to expand them. A latest expansion of the number of services was therefore made by the Royal Decree of 17 August 2018³.

These support services, which must also delegate one or more members to CUTA, are:

- State Security (Belgium's civil intelligence service) and the General Intelligence and Security Service of the Armed Forces (2006)
- The local and federal police services (2006)
- the Belgian federal finance ministry, FPS Finance (specifically, the General Administration of Customs and Excise (2006) and the General Administration of the Treasury (2018)
- the federal transport ministry, FPS Mobility and Transport; the federal interior ministry, FPS Interior (specifically, the Immigration Office) (2006) General Directorate Crisis Centre (2018) and
- the federal foreign ministry, FPS Foreign Affairs, the federal justice ministry, FPS Justice, in particular the General Directorate of Penitentiary Institutions (2018) and the Department of Honour and organised Liberty (2018).

2.6 Extension of Powers in 2018

From the 5th of September onward, following the law of July 30th, 2018 on the protection of natural persons with regard to the processing of personal data⁴, the Standing Committee P was designated, together with the Standing Committee I, as the data protection authority in charge of monitoring the processing of personal data by CUTA and

² Belgian official gazette of July 20th, 2006 (in Dutch and French).

³ Belgian official gazette of September 12th, 2018 (in Dutch and French).

⁴ Belgian official gazette of september 5th, 2018 (in Dutch and French) from now on referred to as "GBW" (data protection law).

its processors, carried out within the framework of the tasks referred to in the law of July 10th, 2006, and by or pursuant to special laws.

2.7 Extension of Powers in 2019

Since June 17th, 2019 the date of implementation of the Law of May 8th, 2019 amending the Law of September 15th, 2013 concerning the reporting of a suspected integrity violation within the federal administrative authorities by its own staff members, the staff members of the integrated police can rely on the reporting system provided by the Law of September 15th, 2013 for reporting a suspected integrity violation within the integrated police.

The Standing Committee P exercises the powers assigned to the federal ombudsmen by this law when a suspected integrity violation is reported by a police officer.

Staff members of the integrated police already had the option of reporting a suspected integrity violation to the Standing Committee P in accordance with the procedure provided by the Organic Law of July 18th, 1991. The amendment to the law of 2013 only provides for a new procedure with a new reporting system in which the Committee P is the external component when the whistleblower is a police officer.

3. Our Mission

Standing Committee P's aim is to promote the effective operation of a democratic, principled and community-oriented police service.

As such, it is the external body responsible, under the supervision of the Federal Parliament, for overseeing both the general operation of the police, inspection or monitoring services and the policing practices of all officials with policing powers. In particular, Committee P monitors the way in which efficiency, effectiveness and coordination are achieved and how fundamental rights and freedoms are respected and actively promoted.

In its capacity as a policing watchdog, Committee P aims to use its investigations and assessments (undertaken either on its own initiative or on request) to:

- continually update the overall picture of policing and of the operation of the police;
- review and give its opinion on the operation of the police;
- issue proposals and advice to the competent (police) authorities.

In addition, a number of specialist investigators are specially assigned to criminal investigations conducted to meet the judicial authorities' needs. Priority is given to investigations in areas that are also likely to supply information that will help Committee P fulfil its watchdog role.

The five members of Standing Committee P, in conjunction with the whole staff, strive to perform the above tasks:

- focusing primarily on the organisation and operation of the police services;
- paying particular attention to taking a constructive and proactive approach to problems;
- acting independently of the police apparatus and the police authorities;
- objectively and on a methodologically sound basis;
- endeavouring to maintain a high level of professionalism;
- making an effort to pursue excellence through its 'learning organisation' approach;
- working in a positive atmosphere;
- through a targeted, collegiate and pluralistic decision-making process.

4. Our Values

4.1 A Positive and Constructive Approach

The Standing Committee P aims to listen to citizens, Parliament, authorities and police officials. It focuses in particular on the various mechanisms for promoting the effective operation of policing structures within our democratic society.

The Standing Committee P's primary mission is to ascertain to what extent the effective operation of the police services can be maintained and where there are areas for improvement. In this connection, it determines whether changes to the applicable legislation or regulations are required, thereby acting as a watchdog for the police service.

With a view to ensuring that Parliament and the police authorities can live up to their responsibilities in this regard, The Standing Committee P must be able to provide a reliable, relevant and as complete as possible picture of the police landscape and the issues involved.

It follows from this that the monitoring undertaken by The Standing Committee P is not primarily intended to identify individual actions so that they can be brought to book; this role remains the responsibility of the judicial, disciplinary and police authorities. In this connection, Committee P must regularly make clear to both the authorities and the public that it is neither a magistrate nor a disciplinary authority and that it does not have the power to award damages.

Finally, The Standing Committee P's oversight goes beyond simply making observations or recommendations. It also checks whether, and to what extent, its recommendations have been taken on board. However, Committee P always makes an effort to do this in a positive and constructive fashion and in consultation with the individual or entity under examination.

4.2 Neutrality, Objectivity and Transparency

The Standing Committee P ensures that its duties are performed objectively, neutrally and transparently, adopting a democratic approach that respects the primacy of the rule of law, freedoms and fundamental rights.

5. Our Organisation

The standing Committee P is supported in its policy and management duties by an administrative staff led by a clerk.

For its investigative assignments, the Standing Committee P gives instructions to the Investigation Department P headed by a Director-General.

5.1 The Standing Committee P

Standing Committee P is made up of five full members, including its Chair – who must be a magistrate – and its Vice-Chairperson, with a substitute being designated for each one of them. Standing Committee P is assisted by a clerk.

Members are appointed for a renewable six-year term. They must have the loyalty, discretion and integrity required to handle sensitive information. They also have a 'top secret'-level security clearance enabling them to handle classified documents. The Organic Law stipulates various incompatibilities and restrictions designed to ensure their neutrality and independence.

The five full members of Standing Committee P follow up on inspection inquiries, complaints and reports of police misconduct. Standing Committee P is a collegiate body, meaning that all final decisions are taken by the five members meeting in plenary session.

5.2 The Administrative Department

This department performs tasks that are inextricably linked to the operational tasks of the Standing Committee P. It includes the complaints department, the data management department and the department where files of whistleblowers are processed.

The staff is responsible for receiving and analysing the complaints and submitting the complaint files to the Standing Committee P itself, which decides upon the orientation of the complaints (see point 10) during its plenary sessions. After receiving the results of the investigation, the staff prepares the closure of the case for the Standing Committee P, which on its turn takes a position on the matter during a plenary session.

Care is also taken to ensure that the data are uniformly and qualitatively assessed so that analyses can be made regarding the general functioning of the police services.

Its tasks also include processing information from external bodies such as judicial or disciplinary authorities.

In addition, this department also houses the support services of the Standing Committee P. Part of its capacity is spent on assignments in the areas of: legal studies, finance, personnel and logistics, ICT, translation, press contacts and the secretariat. Among other things, this ensures the organisation has all the necessary working resources in terms of logistics, infrastructure and personnel.

From within this administrative department, the Standing Committee P and the Investigation Department P are assisted in their tasks of policy and management by an optimal staff of 36 employees, headed by a clerk who performs his duties under the collegial authority and supervision of the Standing Committee P.

5.3 The Investigation Department P

Investigation Department P is Committee P's operational arm and therefore its most visible department on the ground.

To perform its inspection inquiries and certain investigations into complaints, Standing Committee P make extensive use of this department's services. The special legal powers of the members of the Investigation Department P in the framework of inspection inquiries and investigations into complaints are listed in the Organic Law of 18 July 1991.

Investigation Department P is headed by a Director-General, assisted by two deputies. They are appointed by Standing Committee P for a renewable five-year term. The Director-General leads this department under the collegiate authority, management and supervision of Standing Committee P.


In addition, an optimal framework of 52 members of staff has been set. All of them bear the title of 'commissioner-auditor', regardless of their level or grade. They are either seconded from a police force or public service or are permanent staff. The seconded members are also appointed for a renewable five-year term.

Investigation Department P is not just Committee P's investigation arm. It is also involved in sensitive or complex cases as a specialist police entity. As such, it conducts criminal investigations when the perpetrators of the crime are members of a police force or officials with investigative powers.

In this respect, the Director-General, the two Deputy Directors-General and the members of Investigation Department P hold the capacity of 'judicial police officer, assistant of the public prosecutor'.

On its own initiative or at the request of the prosecutor general, the public prosecutor, the labour prosecutor, the federal prosecutor or the competent examining magistrate, Investigation Department P conducts these investigations, in parallel with the other judicial police officers and agents and even with a right of priority over these. As a result, this covers both information under the authority of the Public Prosecutor's Office and investigations under the authority of the examining magistrate, in accordance with the provisions of the Code of Criminal Procedure and certain special laws relating to judicial police officer and agent powers (e.g. the Law on pre-trial detention).

However, the Organic Law of 18 July 1991 expressly states that the performance of these criminal investigations must not jeopardise the performance of Investigation Department P's other duties. By "other duties" we mean especially, but not exclusively, inspection inquiries, complaints and reports of police misconduct. By ensuring that the number of investigators legally responsible for criminal investigations does not exceed half of



Investigation Department P's staff and by making the Chair of Committee P responsible for arbitration, the legislature clearly expressed its desire to limit the criminal investigations requested of Investigation Department P by the magistracy to (serious) allegations justifying recourse to specialist investigators with special powers, in accordance with Committee P's specific duties. This desire was confirmed in the Ministerial Directive of 22 September 2011 organising the division of labour regarding judicial police duties for crimes and offences involving police officials. This gives Investigation Department P priority for investigations against members of the police for crimes and offences committed in the course of their policing (or directly related to this) and constituting a breach of citizens' fundamental rights and freedoms.

6. Our Place in the World of Oversight

6.1 Assisting the Federal Parliament

Committee P's role is inextricably linked with the principle of the separation of powers. As such it assists the legislature in its constitutional role of overseeing the executive branch, having been established under the auspices of the Federal Parliament to provide the latter with an external monitoring body for the police.

Its monitoring does not cover the judicial authorities or their acts as part of a prosecution, nor does it concern the administrative police authorities.

The relationship between Committee P and the Federal Parliament is fourfold:

1. Appointment of the members of the Standing Committee P and their clerk

The five members of the decision-making committee of Committee P (called "Standing Committee P"), their substitutes and the clerk of Committee P are appointed by Parliament, which has the power to dismiss them. Before taking office, they are sworn in by the Speaker of the Chamber of Representatives.

2. Reporting on the Standing Committee P's activities

Standing Committee P submits a report on each inspection inquiry to the House of Representatives.

It also reports to the Chamber of Representatives and the Senate: (1) annually, in the form of a general activity report, including conclusions, proposals and general recommendations; (2) whenever it deems this appropriate or at the request of the Chamber of Representatives or the Senate, in the form of an interim report on a specific investigation; (3) when the Chamber of Representatives assigns it an investigation; (4) where it ascertains, after a reasonable period (but in any case after more than 60 days), that its conclusions have not been followed up on or that the measures taken are inappropriate or inadequate.

3. Monitoring the Standing Committee P's activities

Binnen de Kamer van volksvertegenwoordigers werd een vaste Commissie opgericht om de opvolging van de activiteiten van het Comité P te waarborgen: *'de bijzondere commissie belast met de parlementaire begeleiding van het Vast Comité van Toezicht op de politiediensten en van het Vast Comité van Toezicht op de inlichtingen- en veiligheidsdiensten'*. Deze Commissie vergadert minstens eenmaal per kwartaal met het Vast Comité P.

4. The Standing Committee P's budget

The appropriations required for the operation of Committee P are included in the budget allocated by the chambers of the Federal Parliament.

Committee P is not responsible for the organisation or operation of the entities monitored by it and therefore acts as a totally external and independent body, both with regard to the executive branch and the police services under its supervision.

This particular feature distinguishes Committee P from other inspection or monitoring bodies – such as the General Inspectorate of the Federal and Local Police, and the internal monitoring bodies – which are more focused on inspection duties and report to the executive branch.

6.2 Other Inspection or Monitoring Bodies

The police are monitored by various bodies, some of which Committee P has entered into agreements with.

6.2.1 The General Inspectorate (AIG) and Internal Monitoring

In this context, Committee P works in consultation with the General Inspectorate of the Federal and Local Police (AIG), a ministerial body reporting to the two relevant ministers (Interior and Justice), with a view to performing its statutory duties as a police inspection body. Standing Committee P has entered into an agreement with AIG to this effect. It also strives to forge cooperative ties with the police services' internal monitoring bodies. In this connection, Committee P signed agreements with the General Commissioner of the Federal Police and with local police chiefs.

However, this cooperation does not affect Committee P's ability – or even obligation – to monitor (whether on its own initiative or following a complaint or report of police misconduct) the operation of the above bodies, including AIG, which in a way places Committee P above this internal monitoring body.

6.2.2 The Police Information Management Monitoring Body

The Police Information Monitoring Body (COC) has existed since 1998, but experienced a relaunch upon the implementation of new privacy legislation in Belgium⁵. Since 2014, this body has been moved to the legislature⁶ and is therefore also a part of parliamentary control.

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⁵ GBW.

⁶ Law of March 18th, 2014 on police information management and amending the law of August 5th, 1992 on the police service, the law of December 8th, 1992 on the protection of privacy in relation to the processing of personal data and the Code of Criminal Procedure (Belgian Official Gazette, March 28th, 2014).

The tasks it fulfils are:

1. the role of data protection authority (DPA) for the integrated police, the AIG and the Passenger Information Unit (Bel-PIU) as far as Title II of the Data Protection Act is concerned (implementation directive police justice);
2. the role of DPA for the integrated police⁷ when it comes to non-operational missions cf Title I of the Belgian GDPR legislation (e.g. recruitment and selection) (implementation Data Protection Act);
3. monitoring the processing of the information and personal data referred to in Articles 44/1 to 44/11/13 of the Police Service Act, including those inserted in the ANG, the basic databases, the special databases, the technical databases and the shared databases on terrorism and extremism that may lead to terrorism;
4. additionally, the body also has a role in controlling the visible and invisible use of cameras by the police services (Articles 25/1 to 25/6 and Articles 46/1 to 46/14, respectively, where the COC is given the role of "BAM Committee"⁸ in the image of the so-called BIM Committee on intelligence methods);
5. finally, the COC is also in charge of the ex-post control of the requisition by the General Administration of Customs and Excise for a targeted search of the passenger database when detecting customs-linked offences. In this case, too, the COC has powers similar to those of the BIM Commission for intelligence methods.

6.3 Administrative and Judicial Authorities

The police services always operate under the authority and responsibility of their administrative and judicial authorities. At the same time, there is regular contact with the provincial administrative (police) authorities (e.g. the provincial governor) and their local counterparts (e.g. the mayor, the police board). There are also formal and informal contacts with the Public Prosecutor's Office (more specifically, the Board of Prosecutors General, the Board of Public Prosecutors or the federal prosecutor). These relate in particular to the appropriate and practical implementation of information provision in accordance with Articles 14 and 26 of the Organic Law of 18 July 1991 (communication to Committee P of judgements, rulings, criminal investigations and offences involving members of the police services).

6.4 The Standing Committee I

Committee P fosters close ties with its counterpart, the Standing Intelligence Agencies Review Committee (Committee I). The two committees exchange information about their activities and send each other their reports and conclusions.

They also hold joint meetings at least twice a year, at which further information may be exchanged. At these meetings, they jointly perform their duties on matters relating to

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⁷ Art. 4 §2, section 4 of the DPA Act (Data Protection Authority).

⁸ BAM then stands for "Special Administrative Methods".

both the police and intelligence services, including the division of tasks and the coordination of operations between the police and the intelligence services. Since 1 December 2006, the two committees have together performed their duties pertaining to the Coordination Unit for Threat Assessment (CUTA) and the support services.

The Chair of Committee P also sits alongside the Chair of Committee I and the President of the Commission for the Protection of Privacy on the body hearing appeals brought under the Law of 11 December 1998 establishing an appeal body for security clearances, certificates and advice.

6.5 Other National and International Players

Committee P has contacts with many partners at Belgian federal level, getting together with them convening from time to time at working meetings, e.g. the Police Disciplinary Board, the Federal Police Council, the Privacy Commission and the Board of Prosecutors General.

Committee P entered into an agreement with Unia (the Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination) and Myria, the Federal Migration Centre, with a view to promoting the exchange of information and collaboration.

As well as these public-sector partners, Committee P also has contacts with NGOs such as the Human Rights League and Amnesty International.

As an external and independent oversight body, Committee P is a first point of contact at Belgian federal level for international authorities responsible for monitoring respect for human rights. Committee P's responsibilities for the protection of citizens' fundamental rights in the context of policing overlap with those of various international authorities established under the auspices of the Council of Europe⁹ and the United Nations¹⁰ to ensure respect for human rights.

At the request of the Government (mainly the justice ministry, FPS Justice), Committee P is regularly called on for its collaboration, helping draft state reports, participating in meetings as part of periodic or ad hoc visits or providing responses to specific requests. The variety of knowledge and information held by Committee P as well as the expertise it has developed in terms of problem assessment and best police practices are of significant interest to these authorities.

On 5 May 2015, Committee P signed the cooperation agreement between institutions whose mandate consists fully or in part of a responsibility for safeguarding human rights,

⁹ Specifically, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI), the Council of Europe Commissioner for Human Rights, etc.

¹⁰ Specifically, the UN Committee against Torture (CAT), the UN Committee on the Elimination of Racial Discrimination (CERD), the Office of the UN High Commissioner for Human Rights, etc.

between Unia, Myria, the College of Federal Ombudsmen, the Privacy Commission, the Institute for the Equality of Women and Men, the Ombudsman of Wallonia and the Wallonia-Brussels Federation, the Ombudsman of the German-speaking Community, the Flemish Office of the Children's Rights Commissioner, the Office of the General Delegate for the Rights of the Child of the Wallonia-Brussels Federation, the National Commission on the Rights of the Child, the Combat Poverty, Insecurity and Social Exclusion Service, Committee I and the High Council of Justice.


Together, these institutions constitute the "Human Rights Platform" which aims to set out and analyse problems that affect several institutions; exchange practices and methodologies, benefit from each other's useful experiences and make appropriate use of each institution's respective competences to deal with common dossiers in the spirit of complementarity; and promote cooperation between institutions. The Human Rights Platform holds monthly meetings.

Internationally, Committee P belongs to various networks that aim to enable institutions operating in the same field of activity to share their experiences. For instance, Committee P participates in the European Partners against Corruption (EPAC) network launched in November 2004 and made up of institutions from the member states of the European Union and of the Council of Europe that are responsible for police monitoring and preventing and combating corruption. Further to its involvement in the EPAC network, Committee P is also part of the European contact-point network against corruption (EACN) established by Council of the European Union Decision 2008/852/JHA of 24 October 2008. For more details, see <https://www.epac-eacn.org>.

Committee P is also a member of the Independent Police Complaints Authorities' Network (IPCAN), set up in May 2013 on the initiative of the French Defender of Rights. Each year, Committee P participates in this network's annual conference. For more details, see <https://ipcan.org>.

Committee P is also a member of the International Francophone Police Training Network (Francopol), a consultative and cooperative body associated with the International Organisation of La Francophonie. Francopol's mission is to promote the sharing of best practices as well as research and ideas on police training and expertise. It aims to become a centre of excellence in terms of the sharing and emergence of new police training trends. This network intends to boost police skills to better serve citizens. Francopol provides a forum for improving the consistency of public security initiatives and accelerating the modernisation of policing. As such, the network is playing its part in fostering a greater commitment to peace, democracy and human rights across the French-speaking world ('la Francophonie') with police capacity-building initiatives.

Francopol is an international network of police services, oversight bodies, training centres, universities and other stakeholders operating in the field of police security throughout 'la Francophonie' and beyond.



National members also organise activities back home in their respective countries. For more details, see <http://www.francopol.org> (in French).

7. Who is Monitored by the Standing Committee P?

Committee P provides external oversight of what the Organic Law of 18 July 1991 calls "police services". This is a very broad term.

More specifically, Committee P closely monitors:

- all the constituent parts of the local police zones and the Federal Police, including their internal monitoring and inspection bodies and the General Inspectorate of the Federal and Local Police;
- entities forming part of authorities and bodies serving the public interest whose members hold the capacity of judicial police officer or agent;
- persons individually responsible for identifying and recording offences. Private rural wardens are one specific example of this. Overall, it would be a reasonable assessment that this affects hundreds of police officials operating in sectors such as the economy, labour and employment, agriculture, public health, social security and public work;
- the security services within public transport companies (NMBS, MIVB, TEC, De Lijn) and security officers when performing their activities (art. 212 of the law of 2 October 2017 regulating private and particular security), and;
- the Coordination Unit for Threat Analysis (CUTA), the body in charge of assessing terrorist and extremist threats, as well as those services that are obliged to transmit intelligence to the CUTA (so-called "support services").

Committee P's monitoring also covers other stakeholders: security services within public transport companies (SNCB/NMBS, STIB/MIVB, TEC, De Lijn) and the security officers who work there doing this job or performing these duties (Article 212 of the Law of 2 October 2017 regulating private and personal security); and the Coordination Unit for Threat Assessment (CUTA), which is responsible for evaluating the threat posed by terrorism and extremism, as well as the various services which are required to forward information to the CUTA (the so-called 'support services').

Committee P's mission is to examine how police services act on the decisions of the judicial authorities, the Public Prosecutor's Office and the administrative authorities (the Interior and Justice Ministers, provincial governors, district commissioners and mayors). Although Committee P has no monitoring powers over these police authorities themselves, its findings inevitably include some relating to the actions or omissions of these authorities.

When it comes to CUTA and its supporting services, the joint supervision of the Committee P and the Committee I covers the obligation of the supporting services to inform CUTA, the protection of the rights guaranteed to individuals by the Constitution and the law, the coordination and efficiency of the CUTA.

In the capacity of data protection authority, the joint supervision of the Standing Committee P and the Standing Committee I also pertains to compliance with the regulations on the protection of privacy with respect to the processing of personal data carried out by CUTA and its processors within the framework of the assignments stipulated in the Act of 10 July 2006, and by or pursuant to special laws.

8. How does the Standing Committee P Fulfil its Duties and Powers?

8.1 Watchdog Role

The need to handle a large number of complaints and individual reports of police misconduct has a major impact on Committee P's workload. As a result, the legislature has explicitly encouraged the Committee to shift the focus of its activities back onto its core responsibilities and tasks, namely safeguarding citizens' constitutional rights and fundamental freedoms, as well as seeing to the coordination, effectiveness and efficiency of police services and officials with policing powers.

Committee P aims to use its watchdog role to carry out this mission to the best possible effect for the benefit of the legislative and executive branches and the judiciary as well as the various police chiefs.

In addition to drawing on its internal expertise, Committee P may call on external experts where appropriate. The process of developing the overall picture is both proactive and reactive, being performed on Committee P's own initiative and on request. In as far as is possible, it decides as soon as it can on strengths, areas for improvement and problems.

- Committee P accomplishes this mission by means of the following activities:
- collecting and recording information;
- performing on-the-ground investigations and making analyses;
- in conducting the investigation, priority is given to the macro and meso levels, while the micro level is examined in so far as required by law but this is kept to the bare minimum;
- disseminating its conclusions, including through publications;
- issuing short-, medium- and long-term recommendations and opinions, in line with the early-warning principle (or not, as the case may be);
- following up on the recommendations.

The legislature has provided Committee P with a number of means for it to perform its overall monitoring mission, meaning that it has various tools of its own or external tools at its disposal. These are detailed below.

8.2 Information Disclosed to Committee P

Through various information sources, Committee P has access to data that are indicators of either best practices or potential problems within the police or inspection services. This allows it to substantiate its thinking and decision-making and, where necessary, conduct inspection inquiries or other investigations.

The 'reactive' component relates to:

(1) complaints and reports of police misconduct submitted by private individuals or by certain police officials or forwarded by national bodies involved in defending human rights or by other non-governmental organisations;

(2) the information provided by the police services and corps, the disciplinary authorities, the General Inspectorate of the Federal and Local Police and the judicial authorities, as envisaged by the Organic Law of 18 July 1991.

The following are forwarded to Committee P:

- by the police services¹¹:
 - regulations and guidelines as well as any other documents regulating their members' conduct;
 - a copy of complaints and reports of police misconduct they have received and the results of any internal investigation;
 - disciplinary and law enforcement measures against one of their members;
 - a copy of the annual report or any other general report on their operation;
- by the General Inspectorate (AIG)¹²:
 - regulations and guidelines as well as any other documents regulating its members' conduct;
 - a copy of complaints and reports of police misconduct it has received and the results of any internal investigation;
 - a copy of the annual report or any other general report on its operation;
- by the CUTA¹³:
 - regulations and guidelines as well as any other documents regulating the conduct of members of the CUTA and of the support services;
- by the judicial authorities¹⁴:
 - a copy of judgements and rulings relating to crimes and offences committed by members of the police and of the CUTA;
 - when an information procedure or an investigation for a crime or offence is opened against a member of a police force;

(3) The Standing Committee P and the Investigation Department P may invite for interrogation any person whose interrogation they deem necessary. Members of the police services, CUTA and its support services are obliged to comply with any written summons. They are permitted to give statements on facts covered by professional confidentiality.

.....
¹¹ Article 14*bis*, paras 1 and 2 and Article 14*ter* of the Organic Law of 18 July 1991.

¹² Article 14*bis*, paras 1 and 2 and Article 14*ter* of the Organic Law of 18 July 1991.

¹³ Article 9, para. 2 of the Organic Law of 18 July 1991.

¹⁴ Article 14, paras 1 and 2 of the Organic Law of 18 July 1991.

The Chair of Committee P may summon police officers through the assistance of a bailiff.

Under penalty of criminal prosecution, police officers must testify after having taken the oath. They are obliged to disclose secrets of which they have knowledge to the Standing Committee P, except if they relate to a criminal investigation. If the police officer considers that he should keep the secret of which he is aware a secret because its disclosure could put a person in physical danger, the matter shall be presented to the Chair of the Standing Committee P (if a member of a police force is concerned) or to the Chairs of Committees P and I (if a member of CUTA's staff or its support services is concerned), who shall decide upon the matter.

The Standing Committee P and the Investigation Department P may call on the assistance of experts and interpreters.

The members of the Investigation Department P are authorised to conduct investigations on locations where the staff members of a police service within the meaning of Article 3 of the Organic Law of 18 July 1991 (i.e. local and federal police and all services whose members have the capacity of constable or officer of judicial police), the CUTA or its supporting services perform their duties and to confiscate any objects and documents found in these locations that may be useful for the investigation, except those relating to an ongoing criminal investigation. They may request the assistance of the civil service. The Standing Committee P and the Director-General of the Investigation Department P may impose mandatory response deadlines on police services.

(4) In addition, members of a police force or of the General Inspectorate of the Federal Police and of the Local Police are obliged to prepare an informative report when they establish a crime or wrongdoing committed by a member of a police force. This report must be submitted to the Director-General of the Investigation Department P¹⁵.

The following are submitted at Committee P's request:

- a copy of the deeds or documents, or information relating to criminal proceedings against members of the police and of the CUTA for crimes or offences committed while performing their duties¹⁶;
- any other texts or documents Committee P deems necessary to accomplish its mission¹⁷.

The 'proactive' component relates in particular to:

- (1) frequent visits to police stations or police posts;
- (2) observations on the ground during specific policing activities;
- (3) inspection inquiries (inspections of other monitoring bodies or thematic inquiries) aimed, for example, at checking police officials' respect for fundamental rights and

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¹⁵ Article 26 of the Organic Law of 18 July 1991.

¹⁶ Article 14, para. 3 of the Organic Law of 18 July 1991.

¹⁷ Article 9, para. 2 of the Organic Law of 18 July 1991.

freedoms or at ensuring that police operations are optimally coordinated and that policing in general is efficient;

(4) carefully reading open sources on police- and security-related matters which are not necessarily the subject of a complaint or a report of police misconduct to Committee P.

To promote exchange of information, cooperation and consultation, mechanisms for passing on information have been introduced through agreements entered into with the Federal Police, the local police zones and the General Inspectorate of the Federal and Local Police.

Other information-sharing and cooperation agreements have also been signed with organisations such as Unia and Myria.

8.3 Marginal Checking

Besides its investigative assignments, Committee P provides general monitoring of the quality of handling of complaints and reports of police misconduct. This external oversight of the handling of complaints and reports of police misconduct, is called “marginal checking” and helps ensure a rigorous, thorough examination of such complaints and reports by the police services in question. Committee P is committed to promoting the application in this regard of a number of criteria and standards and sees to it that these are met.

Providing this type of monitoring in an effective manner necessarily requires Committee P to be aware of any complaints affecting police services and handled at another level (General Inspectorate of the Federal and Local Police or specifically internal monitoring bodies).

9. Inspection Inquiries

9.1 What are Inspection Inquiries?

Conducting inspection inquiries is the core task of the Standing Committee P. About 15 inspection inquiries are conducted annually on the committee's own initiative, at the request of parliament or some administrative or judicial authority.

The Standing Committee P or, in certain cases, its Investigation Department P, can open a inspection inquiry at any time.

Standing Committee P may decide to take such action:

- on its own initiative;
- at the request of the Chamber of Representatives;
- at the request of a (judicial or administrative) police authority;
- at the request of any competent (federal or regional) minister;
- at the request of any other competent authority;
- in response to a complaint or report of police misconduct by anybody.

Meanwhile, Investigation Department P may take action:

- at the request of Standing Committee P;
- on its own initiative, in which case it will immediately inform Standing Committee P, which will decide whether the investigation should be pursued and if so, what form it should take;

During such inquiries, Investigation Department P, under the authority and acting on the orders of Standing Committee P, will go beyond the level of a single complaint to assess more general issues at a broader, more systematic level.

These inquiries by their very nature are not judicial, administrative or disciplinary. Finally they are completely *sui generis* as they are conducted only by and under the supervision of Standing Committee P.

They may cover a very wide variety of issues and relate to the operation of an entire police corps (e.g. the X Police Zone), a unit of a police corps (e.g. a local investigation team or a unit of the Federal Police's traffic police) or of a force (e.g. Customs' investigation team, the Directorate-General for Supervision of Social Legislation). They may also be more thematic, e.g. investigating how police services are using their powers to conduct body searches or make arrests, the organisation and operation of information management in the integrated police or some of its constituent parts, diversity policy and anti-racism policy in the police, how the police services treat the mentally impaired, driving of police vehicles and traffic accidents involving them, the wearing of symbols in the police, and the approach to financial and economic investigations in the federal judicial police.

Overall, while it is true to say that these inspection inquiries may relate to a very wide range of police and security issues, they all retain a link with Committee P's *raison d'être*, namely monitoring of the respect for and/or the active promotion of human rights and effectiveness, efficiency and coordination in the police services.

The purpose of these inspection inquiries is always to draw up a number of conclusions and recommendations for the police authorities and forces.

On its own initiative or at the request of the special committee charged with providing parliamentary support for the Standing Police Monitoring Committee and the Standing Intelligence Agencies Review Committee, Committee P also follows up on its previous recommendations periodically or on an *ad hoc* basis.

9.2 Accessibility of the Inspection Reports

All inspection inquiries culminate in a report submitted to Parliament. This report sets out in general terms the investigations or checks carried out and includes the conclusions relating to the texts, activities or methods liable to compromise the respect for citizens' fundamental freedoms and constitutional rights and the effectiveness of the police. When drafting reports, the principle of adversariality is also applied wherever possible during inspection inquiries.

If the investigation was launched at the request of the competent minister or authority, a copy of the report will be submitted to this minister or authority. This report is confidential until it is discussed by the special committee responsible for the parliamentary supervision of the Standing Police Monitoring Committee and the Standing Intelligence Agencies Review Committee of the House of Representatives. The competent minister or authority may also be informed by a general or specific report, following a complaint or report of police misconduct or a set of complaints or reports of such misconduct.

The competent minister or authority may confer with Committee P regarding a specific report or several inquiry reports and their conclusions. The Committee may also propose such an exchange of views itself. In addition, the competent minister or authority will inform Committee P of the steps taken in response to its conclusions.

After any opinion received from the competent minister or authority, Committee P may decide to publicly disclose all or some of its reports and conclusions, in the manner that it deems fit in accordance with its internal rules of procedure. Due to their confidential nature (for privacy reasons or due to the secrecy of an ongoing pre-trial investigation or to protect the physical integrity of certain persons), certain investigations will be made public only after a number of years, if at all. These reports are of course always submitted to Parliament.

10. How are Complaints and Reports of Police Misconduct Investigated?

10.1 Complaints and Reports of Police Misconduct

Any citizen may lodge a complaint, submit a report of police misconduct or communicate information to Committee P regarding the operation or conduct of an intervention by a police force or one of its officials¹⁸. This information may relate to personal behaviour running counter to police ethics (rudeness, improper behaviour, late intervention, etc.) or organisational or structural problems, i.e. related to the structure of the police force and its organisation or operation.

Any police official has an equal right to lodge a complaint and need not request the authorisation of their superiors, nor may they be disciplined for doing so.

In certain cases, if the informant makes a specific request accordingly, Committee P may protect his or her anonymity, taking all the appropriate measures to this end. His or her identity will then be known only to Standing Committee P and Investigation Department P.

Committee P examines more specifically complaints and reports of police misconduct relating to an organisational failing or a serious failing, fault or negligence by an individual.

10.2 Notification and Motivation on Closure of an Investigation

At the end of an investigation, Committee P will draw up its conclusions and will also give its opinion on whether or not the complaint or allegations is/are justified. In some instances, recommendations are drafted and sent to the police chief, the head of a particular service and/or the police authority in question.

The complainant or informant is notified, in general terms, of the findings of the investigation.

However, Committee P may also decide to (temporarily or permanently) close a case relating to a complaint or a report of police misconduct or to close it without taking any further action. This will apply in particular if:

- Committee P is not competent *ratione materiae* or *ratione personae*¹⁹;

.....
¹⁸ A more detailed description of the procedure and form can be found on the website: www.comitep.be.

¹⁹ Committee P's non-competence is either *ratione personae* (where the complaint does not relate to a police force or a police official), *ratione materiae* (most often where the case is examined by the judicial authorities or where the subject of the complaint falls outside the scope of police operations).

- the complaint or report of misconduct is clearly unfounded²⁰ or irrelevant²¹; is insufficiently substantiated²² or not backed up by any hard evidence²³;
- the complainant or informant cannot be tracked down , refuses to cooperate or drops the complaint;
- the General Inspectorate of the Federal and Local Police, a specifically internal monitoring body or any other ad hoc specific institution or service is already examining the case.

The decision to close a case or take no further action must also be communicated and justified to the complainant or the informant. However, where relevant or useful, some details from such cases may be passed on, for information purposes, to the police force in question.

10.3 Investigation of a Criminal Offense

If allegations constituting a criminal offence are reported, they will be disclosed to the judicial authority, which has exclusive competence in this regard. This does not preclude opening an inspection case at the same time, relating to the aspects of the allegations that do not constitute a criminal offence.

Under certain circumstances, the judicial authorities may require the Investigation Department P to carry out the subsequent criminal investigation.

10.4 Transfer of Powers²⁴

Committee P examines some of these complaints and reports of police misconduct itself (sometimes calling on the assistance of Investigation Department P) but leaves most of them to the police corps.

Standing Committee P may decide, if it considers that the allegations reported to it do not relate to organisational problems or serious personal errors, problems or negligence, to transfer the power for handling these allegations to the relevant police official, namely the General Commissioner of the Federal Police, a local police chief or the head of the other police services referred to in Article 3 of the Organic Law of 18 July 1991.

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²⁰ These are complaints that unreasonably challenge police officials' authority to make an intervention despite its legal basis. One example in the field of road traffic would be where the complainant disputes a fine or a test which is legally sound.

²¹ These are often complaints formulated in general terms and expressing general dissatisfaction with society or democratic institutions.

²² These are complaints relating to a specific police intervention, which may be justified but do not include sufficient details to substantiate the disputed police intervention (e.g. information on the place, time, those in attendance, circumstances, consequences, etc.).

²³ These are complaints which are vaguely or unclearly formulated, most often based on unrealistic expectations of the police forces in question.

²⁴ Article 10, para. 4 of the Organic Law of 18 July 1991.

]In case of such a transfer of powers, the police services handle these complaints and reports either completely by themselves or under the supervision of Committee P.

In this way a substantial proportion of complaints and reports are handled by the forces themselves, helping boost the public's trust in the police, which was one of the reasons for establishing Committee P in the first place.

Under Ministerial Circular CP3 of 29 March 2011 concerning the internal monitoring system in the two-tiered integrated police²⁵, it is the responsibility of the entity to which the complaint or report has been transferred to notify the complainant or the informant accordingly.

When closing the case, this entity notifies Committee P of the conclusions of its investigation and any measures taken.

10.5 Possibility of Obtaining a Second Opinion from Committee P²⁶

If handling powers are transferred, the notification to the complainant or the informant will indicate that if the latter has an objection to the conclusions of the investigation communicated by the police force when closing the case, it may ask Committee P to reconsider its complaint or report of police misconduct.

This is not a right to of appeal per se but an opinion based on additional information Committee P may request from the police services involved so that it can decide on its position on how the investigation was conducted.

This makes Committee P the ultimate guarantor for the effective handling of complaints, including those examined by the internal monitoring bodies and the General Inspectorate of the Federal and Local Police.

10.6 Disciplinary Procedures

Under Article 26 of the Law of 13 May 1999 establishing the disciplinary status of police personnel²⁷, the Chair of Committee P has a binding right to issue instructions to the disciplinary authorities. In other words, if the Chair of Committee P informs the disciplinary authority of allegations which may constitute a disciplinary offence, this authority must investigate whether to actually launch disciplinary proceedings for the actions in question. The disciplinary authority must also keep the Chair of Committee P informed of the follow-up to this request. This does not mean that it has to initiate disciplinary proceedings. In simple terms, it must check whether the actions justify such

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²⁵ Belgian Official Gazette of 21 April 2011 (in Dutch and French).

²⁶ Article 10, para. 4 of the Organic Law of 18 July 1991.

²⁷ Article 23 of the Organic Law of 18 July 1991.

proceedings and then communicate its decision²⁸. Against this backdrop, we should stress that Committee P itself has no disciplinary powers and cannot impose such sanctions on members of the police.

Similarly, under Article 23 of the Organic Law of 18 July 1991, if during an investigation a member of Investigation Department P finds evidence of behaviour that could constitute disciplinary misconduct, the Director-General of Investigation Department P must immediately inform the relevant disciplinary authority.

10.7 Mediation

Finally, it is worth pointing out that Committee P does not have a mediation role, but the General Inspectorate of the Federal and Local Police can perform such a function.

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²⁸ Pyl, G. and Liners, A., *Discipline, Manuel pour les fonctionnaires de police dirigeants* [Discipline: Handbook for senior police officials], Brussels, Politeia, 2005, p. IV/4 (in French).

11. Integrity Violations

Since the 17th of June 2019, the procedure concerning the reporting of a suspected integrity violation within the federal administrative authorities by its personnel²⁹ extends to the personnel of the integrated police³⁰.

The powers granted by this law to the federal Ombudsmen are exercised by the Standing Committee P when a suspected integrity violation is reported by a police officer (or a police officer who has left the police services less than two years ago).

This specific procedure is carried out in two stages. The first stage consists of a preliminary opinion. Only if this advice is favorable can the applicant make an actual report (phase two), after which the Standing Committee P will initiate a thorough investigation.

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²⁹ Introduced by the Act of September 15th, 2013 and amended by the Act of May 8th, 2019.

³⁰ A more detailed description of the procedure and form can be found on the website: www.comitep.be.

12. How to Contact Committee P

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13. Imprint

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