



MINISTRY OF
SOCIAL AFFAIRS AND HEALTH
National Advisory Board on Health Care Ethics
(ETENE)
Ritva Halila

OPINION

Rec no.
142/04/2002

8.8.2002

Ministry of Social Affairs and Health

**Ref: REQUEST FOR COMMENTS BY THE MINISTRY OF JUSTICE OF 13
JUNE 2002/OM 16/41/2002**

**Subject PROPOSAL FOR A GOVERNMENT BILL ON INCORPORATING PROVI-
SIONS CONCERNING TERRORISM INTO THE PENAL CODE AND THE
COERCIVE MEASURES ACT: Views on the bill from the point of view of the
National Advisory Board on Health Care Ethics**

The Ministry of Social Affairs and Health has asked the National Advisory Board on Health Care Ethics (ETENE) to issue an opinion on the above-mentioned proposal for a Government bill. The Advisory Board has not convened since receiving the request for comments, and so this opinion has been prepared by its chairman and the general secretary.

The proposal deals with a very important and topical theme. Societies have undoubtedly a legitimate right to protect themselves against the threat of terrorism. This concerns local, national and international communities. The more terrorism is internationalised the more international co-operation and instruments are needed to tackle the issue.

One difficulty in dealing with the issue is that it is not necessarily clear, at least not in practical situations, what is regarded as terrorism and what is regarded as legitimate self-defence or fight for freedom. In an aggravated situation there is a danger that the tolerance for difference is reduced and human dignity and human rights are put at risk. Therefore it is important that the planned legislation must not in any way jeopardise the human rights laid down in the Constitution. Attention should be paid, in particular, to those considerations that have been put forward in the statement of reasons for section 6 (on pages 43-48). The legislation now being prepared may not restrict e.g. the traditional right to strike and demonstration.

The area dealt with in the report does not very specifically concern the sphere of authority of the National Advisory Board on Health Care Ethics. Mainly, the issues concerning health-related crimes and privacy protection, and taking, storing and utilisation of DNA samples are an integral part of health care and thus of vital interest to the Advisory Board. It is both understandable and ethically acceptable to create new provisions concerning the acquisition, production, storing and use of biological weapons in connection with terrorism. The former definition of health-related crime evidently does not cover this area.

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As stated in the report, the provisions of the Finnish Penal Code apply at present, almost without exception, to the terrorist crimes referred to in the framework decision. Thus it would not appear to change or threaten the already established penal basis.

Referring to the right of a community to protect itself against terrorism it is in our opinion justified also to prescribe about the duty to notify a crime in the way proposed in the report.

In our opinion, extending the electronic listening, electronic supervision and technical monitoring to issues related to terrorism does not in the proposed form change the policy line chosen before, and thus it does not constitute an essential threat from the point of view of human rights issues.

The issue that is most closely associated with the sphere of authority of the Advisory Board is the definition and recording of DNA identifiers. It is stated in the proposed bill that the change would be temporary until the bill 52/2002 enters into force, since it enables bodily search in case the most severe punishment for the crime in question is at least six months' imprisonment. On the other hand, if such an amendment to the Coercive Measures Act is already under consideration at Parliament, is this addition at all necessary? There does not seem to be any ethical contradiction in the content of the proposal as such.

As regards the amendment of the Coercive Measures Act it is essential that the extension of the group in whose privacy it would be allowed to interfere is fairly small and sufficiently exactly defined in the present proposal.

It can be concluded from the above that from the point of view of the National Advisory Board on Health Care Ethics there is no obstacle to implementing the said proposal.

Martti Lindqvist
Chairman

Ritva Halila
General Secretary