

National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies

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Country: Denmark

FRANET contractor: Danish Institute for Human Rights

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1. Summary

FRANET contractors are requested to highlight in 1 page **maximum** the key developments in the area of surveillance by intelligence services in their Member State. This introductory summary should enable the reader to have a snapshot of the evolution during the reporting period (mid-2016 until third quarter of 2022). It should mention:

*the most significant legislative reform/s that took place or are taking place and highlight the key aspect/s of the reform, focusing on oversight and remedies.
relevant oversight bodies' (expert bodies (including non-judicial bodies, where relevant), data protection authorities, parliamentary commissions) reports/statements about the national legal framework in the area of surveillance by intelligence services.*

List of the different relevant reports produced in the context of FRA's surveillance project to be taken into account

FRA 2017 Report:

Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU - Volume II: field perspectives and legal update

FRANET data collection for the FRA 2017 Report:

Country studies for the project on National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies - Legal update

Country studies for the project on National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies - Monthly data collection on the current reform of intelligence legislation (BE, FI, FR, DE, NL and SE)

FRA 2015 Report:

Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – mapping Member States' legal framework

FRANET data collection for the FRA 2015 Report:

Country studies for the project on National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies

Since mid-2016, no substantial legal reforms of the Danish intelligence services have taken place. However, the following amendments to the acts on the Danish Security and Intelligence Service (DSIS) (*Politiets Efterretningstjeneste (PET)*) and the Danish Defence Intelligence Service (DDIS) (*Forsvarets Efterretningstjeneste (FE)*) should be mentioned.

In 2016, the Danish parliament (Folketinget) adopted [an act amending the Act on the Danish Security and Intelligence Service](#) by adding new provisions determining the extent of DSIS' obligation to delete information that no longer meets the conditions for internal processing. It follows from the new provisions, that – in general – DSIS does not have an obligation to delete information that no longer meets the conditions for internal processing if the information forms part of documents etc. which otherwise meet the conditions for internal processing in DSIS. Furthermore, DSIS has been exempted from continuously reviewing cases and documents etc. to assess if the internal processing conditions continue to be met.¹ Thus, DSIS' obligation to continuously assess whether they are storing information

¹ Denmark, Act no. 1727 of 27 December 2016, amending the Act on the Danish Security and Intelligence Service (amending of the tasks of the Danish Security and Intelligence Service with regards to the most severe organized crime and the Danish Security and Intelligence Service obligation to delete information) (*Lov nr. 1727 af 27. december 2016 om ændring af lov om Politiets Efterretningstjeneste (PET) (Ændring af PET's*

that is no longer necessary has been repealed. The reason for the exemption provided by the Ministry of Justice was that the exemption struck a fair balance between data limitation and that DSIS should not spend a disproportionate amount of resources on continuously controlling and deleting unnecessary data.² The provisions mentioned above only relates to DSIS's obligation to delete information that is yet to reach its fixed deletion deadline. DSIS is still required to delete such information in accordance with the fixed deletion deadlines.³

The list of adopted acts (excl. executive orders) read as follows:

[Act no. 1727 of 27 December 2016](#), amending the Act on the Danish Security and Intelligence Service (aims at altering DSIS' obligation to delete information that is no longer necessary but has yet to reach its fixed deletion deadline)⁴

[Act no. 506 of 23 May 2017](#), amending the Alien Act (aims at giving DSIS and DDIS a direct and fast access to the immigrations authorities' records and systems etc.)⁵

[Act no. 462 of 15 May 2017](#), amending the Act on the Danish Defence Intelligence Service (DDIS) and law on customs (aims at giving DDIS access to data on passenger name records (PNR) and further amends by limiting DDIS' obligation to delete data that is no longer necessary. The Act was partially replaced with Act no. 1706 of 27 December 2018 mentioned below)⁶

[Act no. 503 of 23 May 2018](#), amending the Act on processing of personal data by law enforcement authorities, Act on mass media information databases and other Acts. The act contains amendments to both the Act on the Danish Security and Intelligence Service and Act on the Danish Defence Intelligence Service. The amendments are not substantial but are only consequential corrections due to the entry into force of the Danish Act on data protection and GDPR.)⁷

[Act no. 1706 of 27 December 2018](#), Act on collection, use and storing of passenger name records

opgaver i forhold til den alvorligste organiserede kriminalitet og PET's forpligtelse til sletning af oplysninger)), available in Danish at: [Lov om ændring af lov om Politiets Efterretningstjeneste \(PET\) \(Ændring af PET's opgaver i forhold til den alvorligste organiserede kriminalitet og PET's forpligtelse til sletning af oplysninger\) \(retsinformation.dk\)](#)

² Please see [section 3.3.1. in the preparatory works for the legislation](#) (Draft bill no. 71 from 2016)

³ Please see [section 3.3.1. in the preparatory works for the legislation](#) (Draft bill no. 71 from 2016)

⁴ Please see footnote 1.

⁵ Denmark, [Act no. 506 of 23 May 2017](#), amending the Aliens Act (Access by the Danish Security and Intelligence Service and the Danish Defence Intelligence Service to the registers and systems of the immigration authorities, etc.) (*Lov nr. 506 af 23. maj 2017 om ændring af udlændingeloven (Politiets Efterretningstjenestes og Forsvarets Efterretningstjenestes adgang til udlændingemyndighedernes registre og systemer m.v.)*) available in Danish at: <https://www.retsinformation.dk/eli/lta/2017/506>

⁶ Denmark, Act no. 462 of 15 May 2017, amending the Act on the Danish Defence Intelligence Service (FE) and the Danish Customs Act (aims at giving FE access to data on passenger name records (PNR) (*Lov nr. 462 af 15. maj 2017 om ændring af lov om Forsvarets Efterretningstjeneste (FE) og toldloven (FE's adgang til oplysninger om flypassagerer og ændring af FE's forpligtelse til sletning af oplysninger)*), available in Danish at: [Lov om ændring af lov om Forsvarets Efterretningstjeneste \(FE\) og toldloven \(FE's adgang til oplysninger om flypassagerer og ændring af FE's forpligtelse til sletning af oplysninger\) \(retsinformation.dk\)](#)

⁷ Denmark, Act no. 503 of 23 May 2018, amending the Act on processing of personal data by law enforcement authorities, the Act on information databases operated by the mass media and other Acts (Consequential changes as a result of the Data Protection Act and the Data Protection Regulation as well as the application of the Media Liability Act to publicly available information databases, etc.) (*Lov nr. 503 af 23 maj 2018 om ændring af lov om retshåndhævende myndigheders behandling af personoplysninger, lov om massemediers informationsdatabaser og forskellige andre love (Konsekvensændringer som følge af databeskyttelsesloven og databeskyttelsesforordningen samt medieansvarslovens anvendelse på offentligt tilgængelige informationsdatabaser m.v.)*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2018/503>

(PNR). The purpose of the Act is to prepare Danish accession to Directive (EU) 2016/681 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime. Thus, the purpose of the Act is to create a legal framework for the authorities' collection of passenger name records (PNR). With the Act, DSIS and DDIS continue to have access to PNR through the Danish National Police PNR-unit that collects, processes and discloses PNR on behalf of DDIS and DSIS. However, DDIS' access to collection of PNR was expanded meaning that DDIS – unlike before – may collect PNR on Danish nationals.⁸ The Act also introduced that The Danish Intelligence Oversight Board/Tilsynet med Efterretningstjenesterne (TET) provides independent oversight of the Danish National Police PNR's collection, processing and disclosure of PNR on behalf of DDIS and DSIS.

Concerning oversight bodies it should be mentioned that on 24 August 2020, TET released a [press release](#) stating severe critique of DDIS. The background for this was that TET from one or more whistleblowers had received a significant amount of material relating to DDIS in November 2019 which TET had not previously been aware of or able to access through its oversight activities. Among other things, TET stated that the material showed that DDIS on several occasions since the establishment of the oversight body in 2014 had withheld key information from TET and given false information relating to the collection and disclosure of information by DDIS.⁹

Consequently, Folketinget decided that [a committee of inquiry of the Danish Defence Intelligence Service \(DDIS Commission\)](#) (*FE-kommissionen*) should be tasked with investigating and explaining certain matters covered by TET on the special investigation of DDIS.¹⁰

On 13 December 2021, the DDIS Commission delivered its [report and released a summary in a press release](#). In the light of the examination carried out, the DDIS Commission concluded that there were no grounds for raising critique of DDIS or of the five DDIS employees whom have been exempt from their duties during the committees' investigation.¹¹ Based on the commission's report, TET decided temporarily to suspend all oversight activities related to DDIS' collection of raw data and not to initiate new oversight activities on DDIS' collection or disclosure of raw data until the scope of competence of TET had been clarified. By letter of 2 February 2022, TET requested the Minister of Defence to clarify TET's scope of competence. In this connection, TET has drawn the attention of the Minister of Defence to the consequences that the DDIS Commission's report – in TET's view – may have for the independent monitoring of DDIS¹².

The blank acquittal of the five employees seems to suggest that TET was after all not after all withheld from any information.. This is supported by the fact that the committee of inquiry had access to the

⁸ Denmark, Act no. 1706 of 27 December 2018, Act on collection, use and storing of passenger name records (PNR) (*Lov nr. 1706 af 27. December 2018 om indsamling, anvendelse og opbevaring af oplysninger om flypassagerer (PNR-loven)*), available in Danish at: <https://www.retsinformation.dk/eli/lt/2018/1706>

⁹ Denmark, The Danish Intelligence Oversight Board, The Danish Intelligence Agency concludes a special investigation of the Danish Defence Intelligence Service (FE) on the basis of material submitted by one or more whistleblowers (*Tilsynet med Efterretningstjenesterne afslutter særlig undersøgelse af Forsvarets Efterretningstjeneste (FE) på baggrund af materiale indleveret af én eller flere whistleblowere*), 24 August 2020, available in Danish at: <https://www.tet.dk/wp-content/uploads/2022/06/PRESSEMEDDELELSE.pdf>

¹⁰ Denmark, Act no. 1938 of 15 December 2019, Act on the investigation of certain matters relating to the Danish Defence Intelligence Service (*Lov om undersøgelse af visse forhold vedrørende Forsvarets Efterretningstjeneste*), available in Danish at: [Lov om undersøgelse af visse forhold vedrørende Forsvarets Efterretningstjeneste \(retsinformation.dk\)](https://www.retsinformation.dk/eli/lt/2019/1938)

¹¹ Denmark, The Ministry of Justice, Committee of inquiry regarding Danish Defence Intelligence Service delivers report (*Undersøgelseskommisionen om FE har afgivet sin beretning*), 13 December 2021, available in Danish at: <https://www.justitsministeriet.dk/pressemeddelelse/undersogelseskommisionen-om-fe-har-afgivet-sin-beretning/>

¹² TET's annual report 2021 concerning DDIS, page 2: https://www.tet.dk/wp-content/uploads/2022/06/FE_UK_2021_web.pdf

same material that formed the basis of the investigation that led to critique from TET on 24 August 2020. The committee of inquiry were also given access to an extensive additional amount of material from FE and the Ministry of Defence.

However, on the basis of national security the whole report – except a brief summary of the conclusion – is confidential. Thus, the grounds for the conclusion is unknown to the public. The confidentiality concerning the report has been [criticised](#).

On 8 June 2022, the Danish Ministry of Justice published an [evaluation of the legal framework governing DSIS](#). The evaluation indicates that in certain areas there is a need to consider whether a revision of the legal framework should be carried out. This pertains, among other things, considerations regarding changes to the legislation to support DSIS' collection and processing of large amounts of data. However, it is also foreseen that new surveillance measures would need to be followed by appropriate remedies to ensure an effective oversight.¹³

Furthermore, the Ministry of Defence has stated in [a news piece](#) that it also intends to revise the legal framework governing DDIS. The intentions are only vaguely described, but it is foreseen that a revision should strengthen the oversight of DDIS, i.e. by considering the legal framework governing TET. The revision was announced at the same time as the report from the DDIS Commission.¹⁴

2. Annexes- Table and Figures

2.1. Overview of security and intelligence services in the EU-27

FRANET contractors are requested to check the accuracy of the table below (see Annex pp. 93 - 95 of the FRA 2015 report) and correct or add in track changes any missing information concerning security and intelligence services in their Member State (incl. translation and abbreviation in the original language). Please provide the full reference in a footnote to the relevant national law substantiating all the corrections and/or additions made in the table.

	Civil (internal)	Civil (external)	Civil (internal and external)	Military
DK	Danish Security and Intelligence Service/ <i>Politiets Efterretningstjeneste</i> (PET) (part of the Danish National Police)			Danish Defence Intelligence Service (DDIS)/ <i>Forsvarets Efterretningstjeneste</i> (FE)

The information is correct for Denmark.

¹³ Denmark, The Ministry of Justice, Report on experiences with the Act on the Danish Security and Intelligence Service (*Rapport om erfaringerne med PET-loven*), 8 June 2022, available in Danish at: [Justitsministeriet offentliggør rapport om evaluering af PET-loven | Justitsministeriet](#)

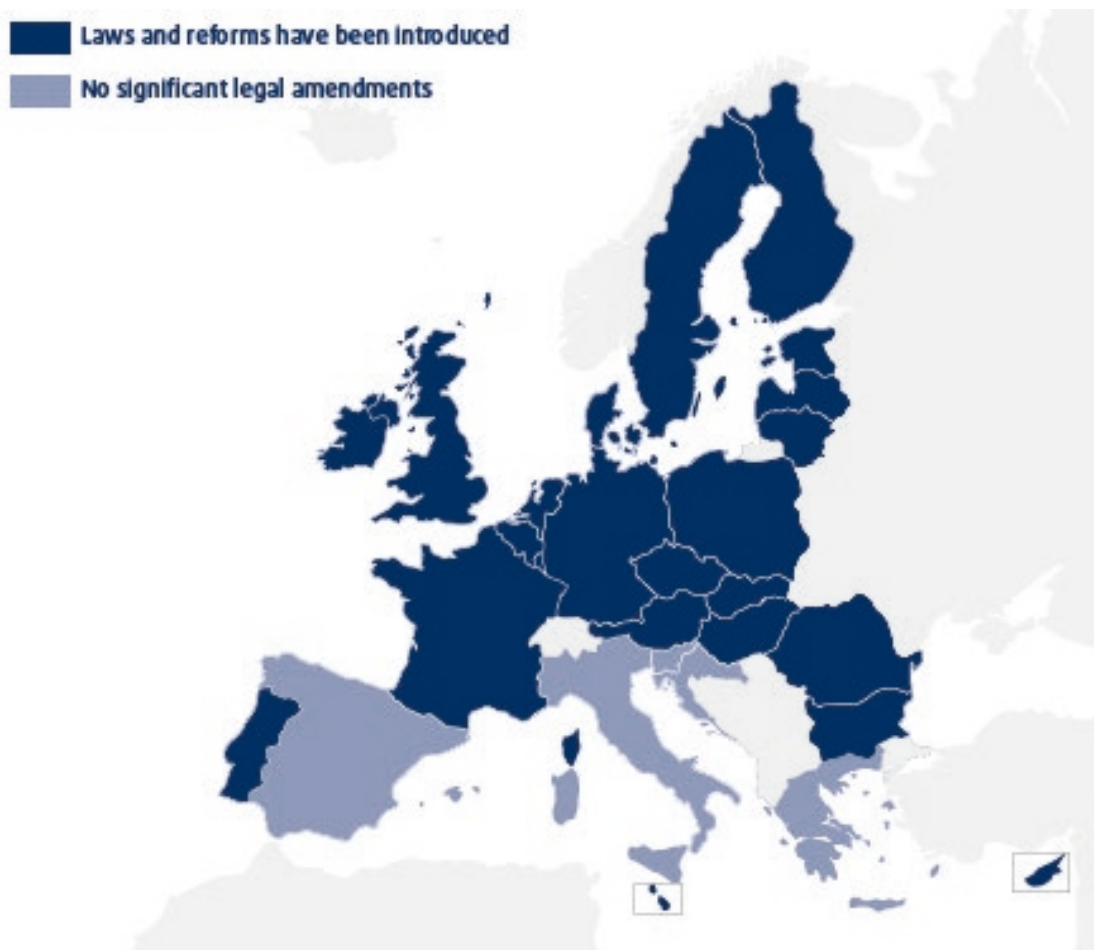
¹⁴ Denmark, The Ministry of Defence, Investigative commission on FE has finalized it's examination and finds no grounds for criticizing FE or it's employees (*Undersøgelseskommisionen om FE har afsluttet sin undersøgelse og finder ikke grundlag for at rejse kritik af FE eller medarbejdere*), 13 December 2021, available in Danish at: [Undersøgelseskommisionen om FE har afsluttet sin undersøgelse og finder ikke grundlag for at rejse kritik af FE eller medarbejdere \(fmn.dk\)](#)

2.2. EU Member States' legal framework on surveillance reformed since 2017

In order to update the map below (Figure 1 (p. 20) of the FRA 2017 report), FRANET contractors are requested to state:

1. Whether their legal framework on surveillance has been reformed or is in the process of being reformed since **mid-2017** – see the Index of the FRA 2017 report, pp. 148 - 151. Please do not to describe this new legislation but only provide a full reference.
2. whether the reform was initiated in the context of the PEGASUS revelations.

Figure 1: EU Member States' legal frameworks on surveillance reformed since October 2015



1. The legal framework on surveillance has not been substantially reformed since mid-2017. We would suggest changing the category for Denmark into 'No significant legal amendments'.

However, In Denmark, Ministry of Justice has published an [evaluation of the legal framework governing the Danish Security and Intelligence Service/Politiets Efterretningstjeneste \(PET\)](#). The evaluation indicates that in certain areas there is a need to consider whether a revision of

the legal framework should be carried out, *i.a.* with regards to methods of providing information and oversight.¹⁵

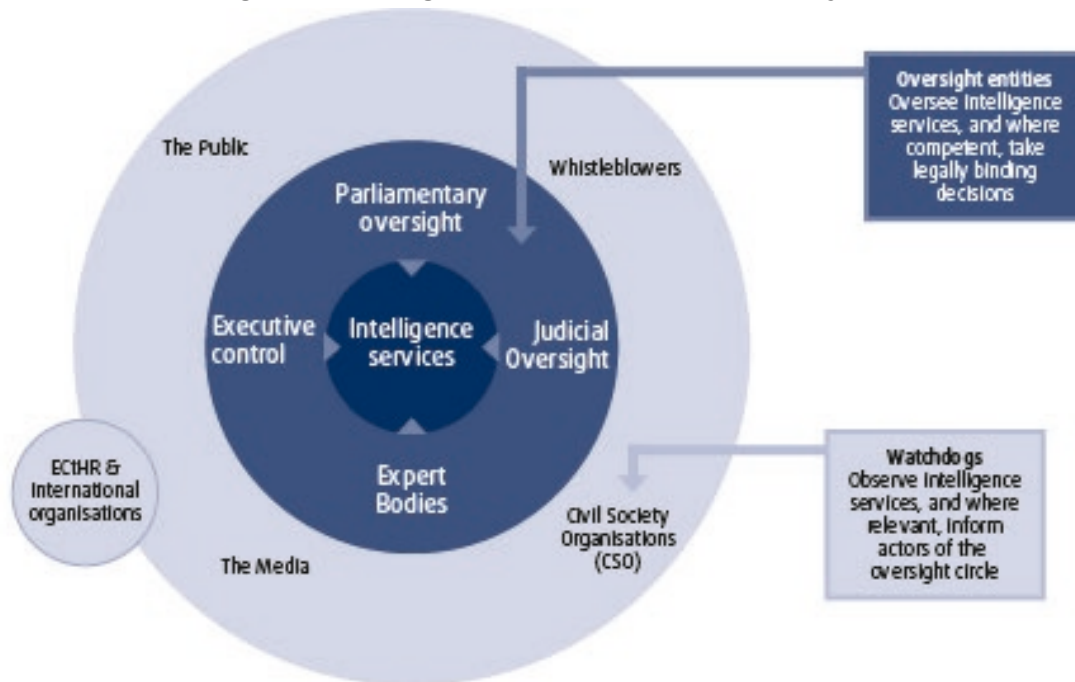
Furthermore, the Danish Ministry of Defences has stated in [a news piece](#) that it also intends to revise the legal framework governing the Danish Defence Intelligence Service/*Forsvarets Efterretningstjeneste* (FE). The revision was announced at the same time as the publication of the report from the committee of inquiry of the Danish Defence Intelligence Service mentioned above.¹⁶

2. The considered reforms are not initiated in the context of the PEGASUS revelations.

2.2. Intelligence services' accountability scheme

FRANET contractors are requested to confirm whether the diagram below (Figure 5 (p. 65) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 5: Intelligence services' accountability scheme



For the sake of completeness, it should be mentioned that Denmark has institutions such as the National Human Rights Institution and the Ombudsman to further ensure safeguards. However, please note that in Denmark, the National Human Rights Institution and Ombudsman do not have any specific powers in relation to the intelligence services

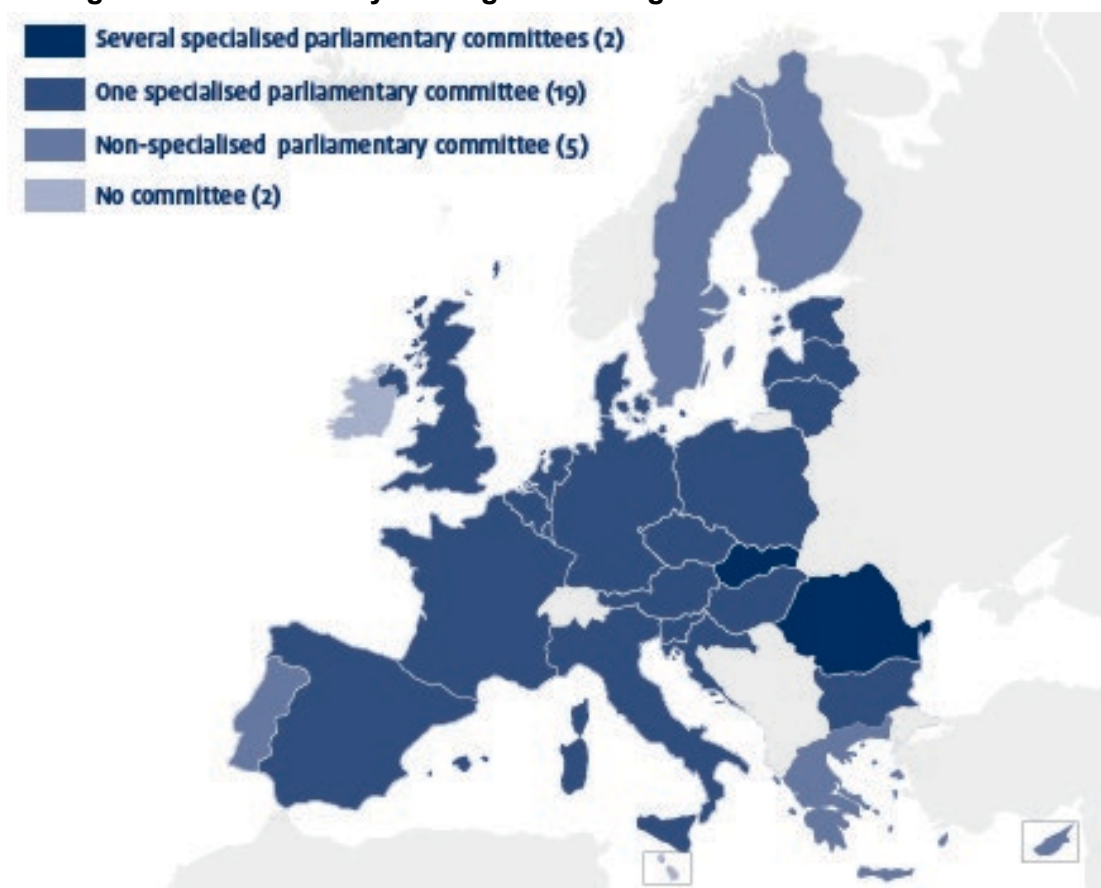
¹⁵ Denmark, The Ministry of Justice, Report on experiences with the Act on the Danish Security and Intelligence Service (*Rapport om erfaringerne med PET-loven*), 8 June 2022, available in Danish at: [Justitsministeriet offentliggør rapport om evaluering af PET-loven | Justitsministeriet](#)

¹⁶ Denmark, The Ministry of Defence, Investigative commission on FE has finalized it's examination and finds no grounds for criticizing FE or it's employees (*Undersøgelseskommisionen om FE har afsluttet sin undersøgelse og finder ikke grundlag for at rejse kritik af FE eller medarbejdere*), 13 December 2021, available in Danish at: [Undersøgelseskommisionen om FE har afsluttet sin undersøgelse og finder ikke grundlag for at rejse kritik af FE eller medarbejdere \(fmn.dk\)](#)

2.3. Parliamentary oversight of intelligence services in EU Member States

FRANET contractors are requested to confirm that the map below (Figure 6 (p. 66) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 6: Parliamentary oversight of intelligence services in EU Member States



The information is correct for Denmark.

2.4. Expert bodies (excluding DPAs) overseeing intelligence services in the EU

FRANET contractors are requested to check the accuracy of the table below (Table 2 (p. 68) of the FRA 2017 report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Table 2: Expert bodies (excluding DPAs) overseeing intelligence services in the EU

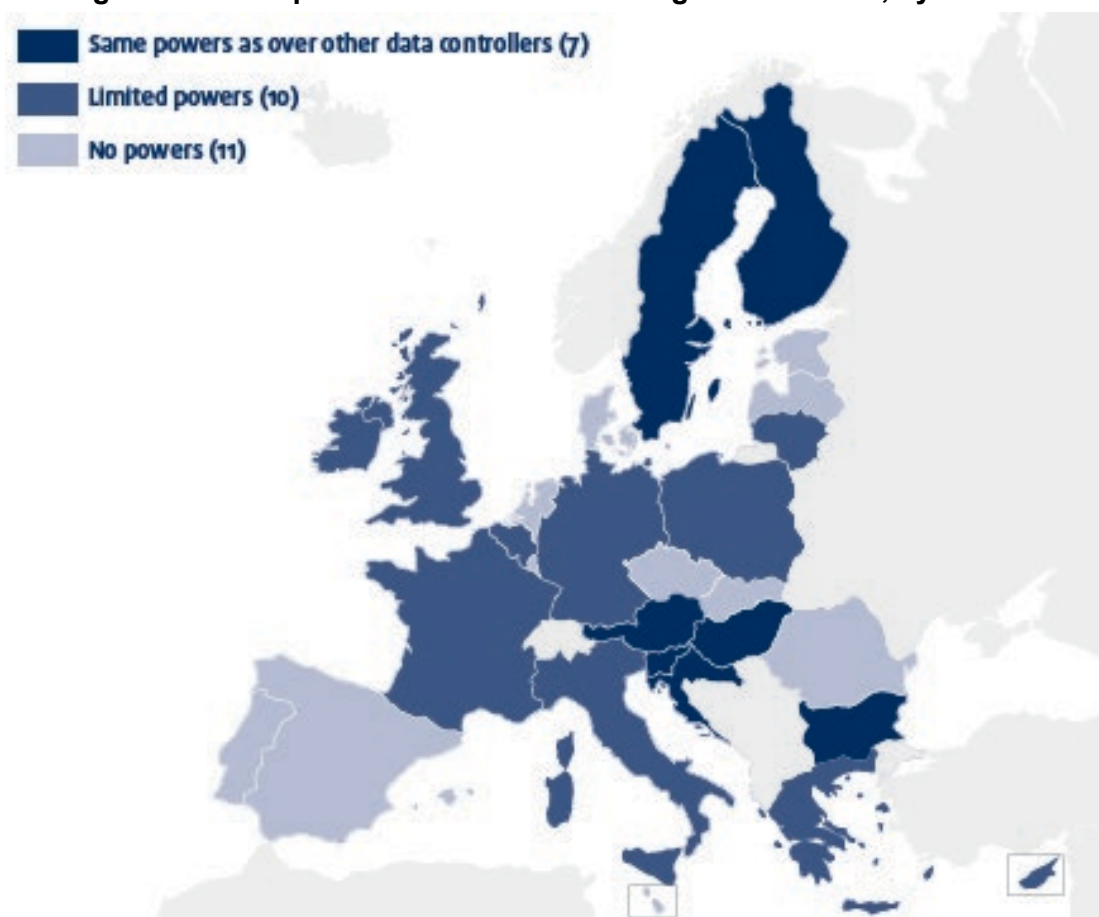
EU Member State	Expert Bodies
DK	The Danish Intelligence Oversight Board (<i>Tilsynet med Efterretningstjenesterne</i>)

The information is correct for Denmark.

2.5. DPAs' powers over national intelligence services, by member states

FRANET contractors are requested to confirm that the map below (Figure 7 (p. 81) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 7: DPAs' powers over national intelligence services, by member states

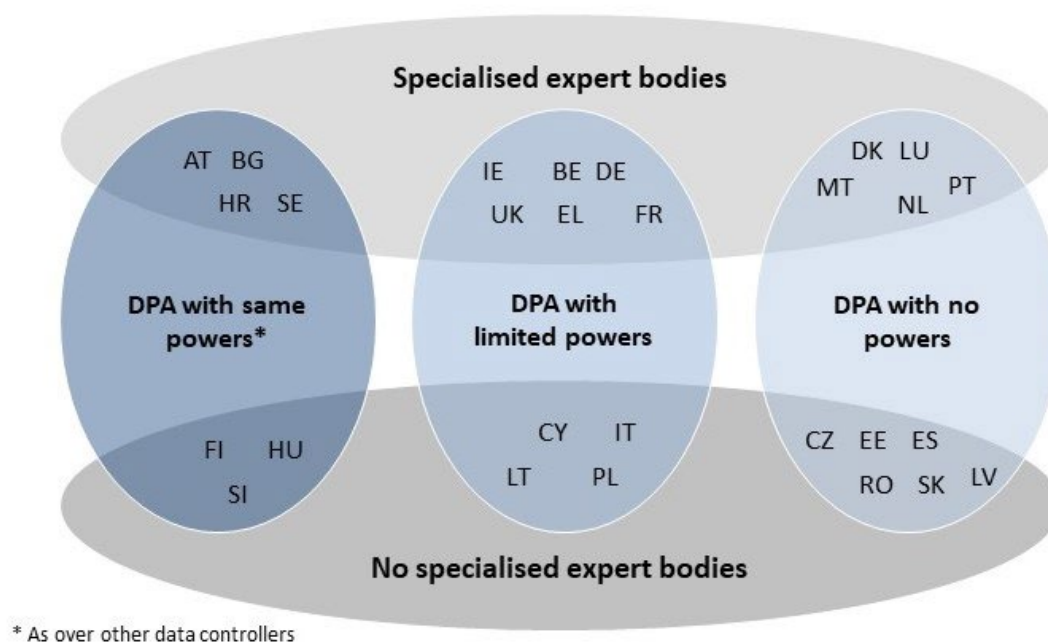


The information is correct for Denmark.

2.6. DPAs' and expert bodies' powers over intelligence techniques, by EU Member State

FRANET contractors are required to check the accuracy of the figure below (Figure 8 (p. 82) of the FRA 2017 report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 8: DPAs' and expert bodies' powers over intelligence techniques, by EU Member State



The Danish Institute for Human Rights confirms that the figure is accurate in relation to Denmark.

2.7. Binding authorisation/approval of targeted surveillance measures in the EU

FRANET contractors are required to check the accuracy of table below (Table 4 (p. 95) of the FRA 2017 report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Table 4: Binding authorisation/approval of targeted surveillance measures in the EU-27

	Judicial	Executive	Expert bodies	Services
DK	✓			

The information is correct for Denmark.

2.8. Approval/authorisation of general surveillance of communication

All FRANET contractors are requested to check the accuracy of the table below (Table 5 (p. 97) of the FRA 2017 report), and to update/include information as it applies to their Member State (if not previously referred to). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework, in particular where - since 2017 - your Member State regulates these type of surveillance methods (for a definition of general surveillance, see FRA 2017 Report, p. 19).

Table 5: Approval/authorisation of general surveillance of communication in France, Germany, the Netherlands and Sweden

	Judicial	Parliamentary	Executive	Expert
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DE		✓		✓
FR			✓	
NL	✓		✓	✓
SE				✓

DSIS

The Danish Security and Intelligence Service Act does not specifically regulate DSIS's general surveillance of communication.

However, according to Section 3 in the Danish Security and Intelligence Service Act, DSIS gathers information that could be of importance to its activities.¹⁷

Gathering of information means to provide information that are accessible, *prima facie*. This is for instance information from newspapers or information from electronic media. Thus, this type of information is limited to information that is publicly available and does not include communication.

When DSIS perform coercive measures, i.a. collect communication, the rules in the Administration of Justice Act apply, cf. Section 6 in the Danish Security and Intelligence Service Act. This means that DSIS may only collect communication pursuant to a warrant issued by the court, cf. Section 783(1) in the Administration of Justice Act. According to Section 781(1) in the Administration of Justice Act, DSIS may only collect communication if

- 1) there is specific reason to presume that the communication give notice to or from a suspect
- 2) the coercive measure is presumed to be decisive for the ongoing investigation
- 3) the investigation concerns a crime that can punished with a prison sentence of 6 years or more, or the crime constitutes an intentional infringement of crimes against the constitution and the state institutions, terror, etc.¹⁸

For the sake of completeness, it should be mentioned that DSIS also have other surveillance measure such as data retention, discovery of documents, search and use of agents as part of the investigation of an offence. However, these are all targeted surveillance measures.

Accordingly, DSIS may only perform targeted surveillance of communication. However, DSIS may conduct general surveillance of information without authorisation when the information is freely accessible.

DDIS

The Act on Danish Defence Intelligence Service does not specifically regulate DDIS' general surveillance of communication.

However, DDIS collects and obtain information that that could be of importance to its activities, cf. Section 3 in the Act on Danish Defence Intelligence Service.¹⁹

¹⁷ Consolidated act no. 231 of 7 March 2017 on Danish Security and Intelligence Service (*Bekendtgørelse af lov om Politiets Efterretningstjeneste (PET)*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2017/231>

¹⁸ Consolidated act no. 1835 of 15 September 2021 on the Administration of Justice Act (*Retsplejeloven*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2021/1835>

¹⁹ Consolidated act no. 1287 of 28 November 2017 on Danish Defence Intelligence Service (*Bekendtgørelse af lov om Forsvarets Efterretningstjeneste (FE)*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2017/1287>

DDIS collects information about circumstances abroad of importance to its activities, e.g., military, political, economic, transnational (terrorism etc.) and technical/scientific information, incl. personal data, cf. Section 1 in the Act on Danish Defence Intelligence Service. The information includes communication from signal intelligence.

With regards to data retention, it is worth noting that DDIS does not have a legal basis to collect information through data retention. However, as mentioned above DSIS may collect information through data retention. DSIS may transfer information to DDIS if the information could be of importance to DDIS's activities, cf. Section 10 in the Danish Security and Intelligence Service Act.

In its surveillance activities targeted abroad DDIS may collect and obtain information without an authorisation. Further, DDIS's use of selectors to make searches in general communications is unregulated. DDIS's collection of general surveillance communication is only subject to subsequent legal oversight from TET after the communication has been collected.

Thus, DDIS are allowed to conduct general surveillance of communication without authorisation.

2.9. Non-judicial bodies with remedial powers

FRANET contractors are requested to check the accuracy of table below (Table 6 (p. 112) of the FRA 2017 report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Table 6: Non-judicial bodies with remedial powers in the context of surveillance, by EU Member State

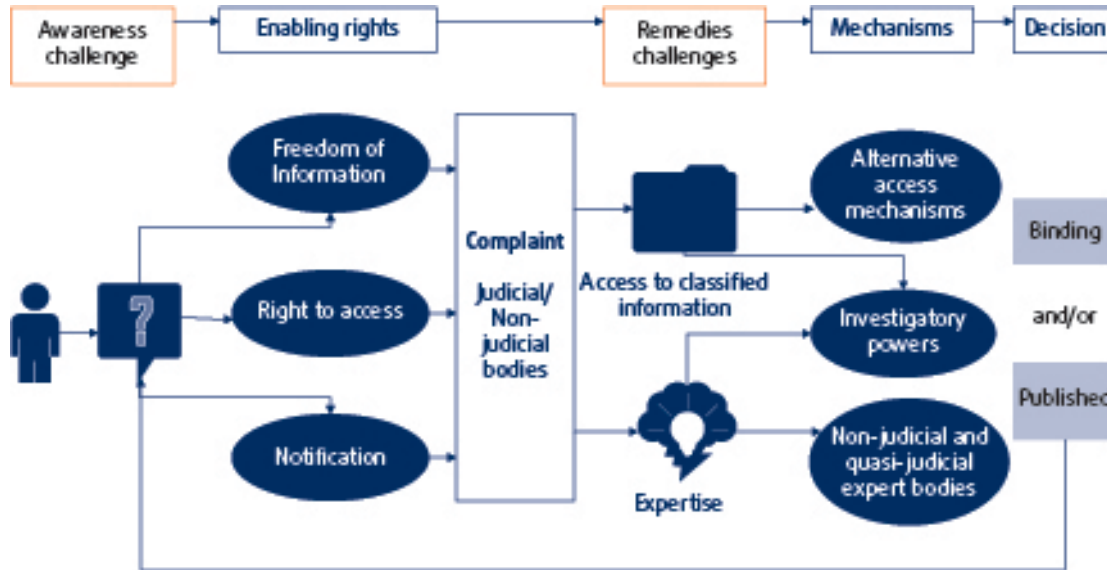
	Executive (ministry)	Expert body(ies)	DPA	Parliamentary committee(s)	Ombuds institution
DK		✓			

The information is correct for Denmark.

2.10. Implementing effective remedies

FRANET contractors are requested to confirm that the diagram below (Figure 9 (p. 114) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 9: Implementing effective remedies: challenges and solutions



The information is correct for Denmark.

2.11. Non-judicial bodies' remedial powers

FRANET contractors are required to check the accuracy of table below (Table 7 (pp. 115 - 116) of the FRA 2017 report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Table 7: Non-judicial bodies' remedial powers in case of surveillance, by EU Member State

	Bodies with remedial competence	Decisions are binding	May fully access collected data	Control is communicated to complainant	Decision may be reviewed
DK	Danish Intelligence Oversight Board				

Note:

- = Expert body
- = Ombuds institution
- = Data protection authority
- = Parliamentary Committee
- = Executive

Source: FRA, 2017

From a practical perspective the information can be seen as correct for Denmark. However, for the sake of completeness it should be mentioned that the legal framework in principle offer more remedial power to TET as described below.

It is correct that TET has full access to data collected by PET and DDIS. As a general rule, TET does not have the power to issue binding dictions. As an example, on an opinion please see page 13-14 in TET's annual report on PET (2021) regarding oversight of PET obligation to delete information

according to the deadlines in the legal framework.²⁰ Entthought TET reports that PET have fail to delete information according to the legal framework TET only give critic and does not give a binding decision to delete.

Further, as a general rule a natural or legal person living in Denmark does not have the right to access information on whether DSIS or DDIS processes data about him or her, cf. Section 12(1) in the Act on Danish Security and Intelligence Service and Section 9(1) in the Act on Danish Defence Intelligence Service.²¹

However, according to Section 13(1) in the Act on Danish Security and Intelligence Service and according to Section 10(1) in the Act on Danish Defence Intelligence Service, a natural or legal person living in Denmark may file a complaint and request TET to investigate whether DSIS or DDIS has illegally processed information about him or her. TET ensures that this is not the case and then give notice to the person. The notice will only state that the service does not illegally process information regarding the person and will not describe if information has been processed and in that case neither what type of information that has been processed.

Where it is established in the course of an examination pursuant to a complaint as mentioned above that DSIS or DDIS processes information illegally, then such information must be deleted, cf. Section 13(2) in the Act on Danish Security and Intelligence Service and Section 10(2) in the Act on Danish Defence Intelligence Service. In these cases, TET has the power to issue a binding decision on deletion.

However, these provisions have limited practical relevance as few people request TET to investigate whether DSIS or DDIS have illegally processed information about him or her. For instance, in 2021 TET received 60 requests to investigate DSIS or DDIS. On seven occasions TET concluded that the intelligence services had processed information illegally and the information was afterwards deleted.²²

If special circumstances so warrant, TET has the power to instruct DSIS or DDIS to give whole or partially access as to which information that has been processed concerning the complainant, cf. Section 13(3) in the Act on Danish Security and Intelligence Service and according to Section 10(3) in the Act on Danish Defence Intelligence Service. However, these provisions have very limited practical relevance as the legislation states that access should only be given under exceptional circumstances.²³ Furthermore, few people request TET to investigate whether DSIS or DDIS have illegally processed information about him or her. For instance, in 2021 TET received 60 requests to investigate DSIS and DDIS. Not on any occasion did TET instruct DSIS or DDIS to give access to information.²⁴

²⁰ TET's annual report on PET (2021), available in Danish at: https://www.tet.dk/wp-content/uploads/2022/06/TET_PET_2021.pdf

²¹ Consolidated act no. 231 of 7 March 2017 on Danish Security and Intelligence Service (*Bekendtgørelse af lov om Politiets Efterretningstjeneste (PET)*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2017/231> and Consolidated act no. 1287 of 28 November 2017 on Danish Defence Intelligence Service (*Bekendtgørelse af lov om Forsvarets Efterretningstjeneste (FE)*), available in Danish at: <https://www.retsinformation.dk/eli/lta/2017/1287>

²² Please see TET's annual report on PET (2021), page 28, available in Danish at: https://www.tet.dk/wp-content/uploads/2022/06/TET_PET_2021.pdf and TET's annual report on FE (2021), page 22, available in Danish at: https://www.tet.dk/wp-content/uploads/2022/06/TET_FE_2021.pdf

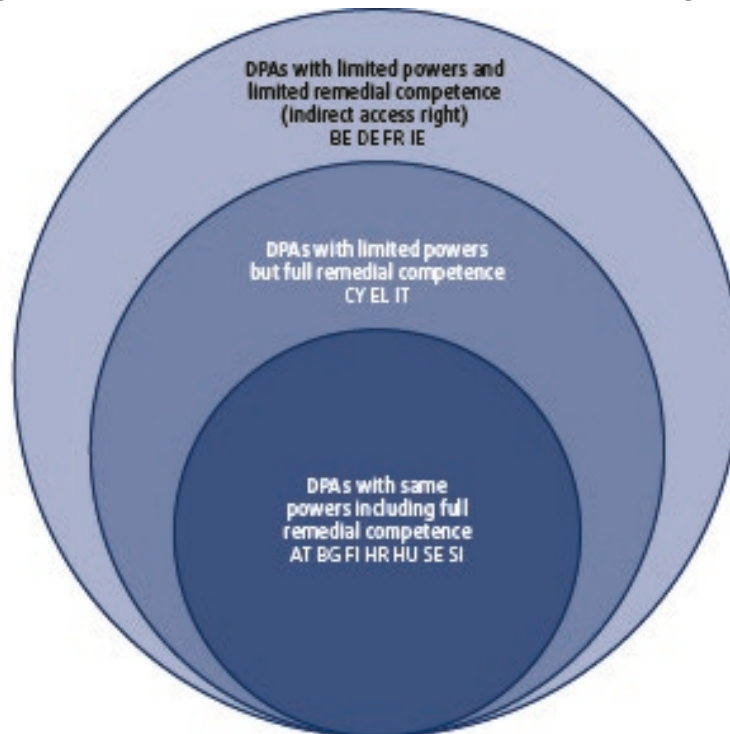
²³ Please the preparatory work pertaining to Section 12 and Section 13, available in Danish at: <https://www.retsinformation.dk/eli/ft/201212L00161>

²⁴ TET's annual report on PET (2021), page 28, available in Danish at: https://www.tet.dk/wp-content/uploads/2022/06/TET_PET_2021.pdf and TET's annual report on FE (2021), page 22, available in Danish at: https://www.tet.dk/wp-content/uploads/2022/06/TET_FE_2021.pdf

2.12. DPAs' remedial competences

FRANET contractors are required to check the accuracy of the figure below (Figure 10 (p. 117) of the FRA 2017 report) with respect to the situation in your Member State. In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Figure 10: DPAs' remedial competences over intelligence services



For Denmark, the figure is accurate as the DPA does not have any authority in relation to the activities of the intelligence services.