

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

November 2022 Update

Country: Luxembourg

FRANET contractor: University of Luxembourg

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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](#)

In **Luxembourg**, the Act of 5 July 2016 reorganising the State Intelligence Service¹ (*Service de renseignement de l'État*) came into force on 1 October 2016. The explanatory memorandum of the corresponding Bill² underlined that the legal framework aimed at establishing a better-regulated national intelligence service with a clear legislative framework and appropriate control mechanisms and procedures.³

The reform focussed on three main aspects: the accountability of the State Intelligence Service; staffing and recruitment; and information exchange and communication.⁴ The Act of 5 July 2016 provides for

¹ Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*). Since coming into force, this Act has been modified three times in 2018 and once in 2020. An official consolidated version of the Act has not been published to date. Unless otherwise stated, reference in this text to the Act of 5 July 2016 reorganising the State Intelligence Service should be understood as referring to the version resulting from those modifications.

² Bill n.º 6675, submitted to the Chamber of Deputies on 02 April 2014.

³ Bill n.º 6675, p. 17.

⁴ Bill n.º 6675, p. 18.

a four-layered system of accountability, of which three are upstream (political, administrative and judicial) and one is *a posteriori* (parliamentary).⁵

At political level, a newly created Ministerial Committee (*Comité ministériel*)⁶ is responsible for establishing general intelligence policy, determining the direction of the State Intelligence Service's activities and monitoring such activities on an ongoing basis⁷. The latter includes authorising special means and measures of investigation⁸. The Director of the State Intelligence Service reports to the Ministerial Committee once a month.⁹

At administrative level, the Government appoints a delegate to the State Intelligence Service (*délégué au SRE*) who monitors its internal functioning. The delegate has individual powers of investigation and control within the Service but is not allowed to interfere in the daily execution of its activities. He makes regular reports to the Minister in charge of Intelligence.¹⁰

At judicial level, the legislative reform provided for a Special Commission (*commission spéciale*)¹¹, which must approve different means and operational measures of the State Intelligence Service. These include the surveillance and control of all forms of telecommunications, access to informatic systems and the observation of private spaces that are not accessible to the public.¹² The Act of 5 July 2016 does not foresee any reporting obligation for the Special Commission. Research of publicly available information has not identified any reports published by the Special Commission.

Finally, at parliamentary level, the activities of the State Intelligence Service are subject to oversight by the Committee of Parliamentary Control of the State Intelligence Service (*Commission de contrôle parlementaire du Service de renseignement de l'État*). The Director informs the Parliamentary Committee about the general activities of the State Intelligence Service at least every three months. The Parliamentary Committee may conduct controls regarding specific files and, to that end, has unrestricted access to information, intelligence and documentation. The Parliamentary Committee is informed every six months of the measures of surveillance and monitoring of communications implemented by the State Intelligence Service¹³. The minutes of the Parliamentary Committee's meetings, as well as its final reports regarding specific controls are confidential.¹⁴

The Parliamentary Committee presents annual activity reports to the Chamber of Deputies.¹⁵ Between 2016 and 2022, the Parliamentary Committee presented six such reports to the Chamber of Deputies. With the notable exception of threat analysis, the reports are mostly descriptive, explaining what were the issues addressed by the Committee and the methodology adopted but not the actual content of the discussions. While the reports make reference, among others, to issues such as the assessment of the national legal framework on surveillance, the processing of personal data by the SRE or irregularities and abuse of power in its functioning, no details are provided regarding the substantive outcomes of the Parliamentary Committee's activities in this regard. Other topics addressed by the reports include the

⁵ Chamber of Deputies, *Bill n.° 6675, Summary of the file*, available at <https://www.chd.lu/fr/techdossier/2921>; and Luxembourgish Government, *State Intelligence Service, Oversight* (last updated on 27 February 2020).

⁶ The Committee is currently composed of the Prime Minister and of the two Deputy Prime Ministers - Luxembourgish Government, *State Intelligence Service, Oversight* (last updated on 27 February 2020).

⁷ Article 2 of *Act of 5 July 2016*.

⁸ Article 6 of *Act of 5 July 2016*, relating to the creation and use of existing legal persons and to the use of fake names and identities; and article 7 of *Act of 5 July 2016*, relating to the surveillance and control of communications.

⁹ Article 2 of *Act of 5 July 2016*.

¹⁰ Article 2 of *Act of 5 July 2016*.

¹¹ The Special Commission is composed of three judges, namely the President of the Superior Court of Justice, the President of the Administrative Court and the President of the Tribunal d'arrondissement de Luxembourg - Article 7(4) of *Act of 5 July 2016*.

¹² Articles 7(4) and 8(3) of *Act of 5 July 2016*.

¹³ Articles 23 and 24 of *Act of 5 July 2016*.

¹⁴ Article 24 (5) of the *Act of 5 July 2016* and article 8 of *Annex 2 of the Internal Regulation of the Chamber of Deputies*.

¹⁵ Article 24(7) of *Act of 5 July 2016*.

following issues: oversight of ongoing surveillance measures; threat evaluation; mission statement of the SRE approved by the Ministerial Committee; SRE's cooperation on surveillance at national and international level; and SRE's staff and budget.¹⁶

Since coming into force, the Act of 5 July 2016 reorganising the State Intelligence Service was modified on four occasions. The changes were related to access by the State Intelligence Service, under the control of the Ministerial Committee, to passenger name records (PNR)¹⁷; the issuance of alerts by the State Intelligence Service, with the permission from the Ministerial Committee, aimed at discreet checks or specific checks in the framework of Council Decision 2007/533/JHA¹⁸¹⁹; access by the State Intelligence Service, under the control of the Ministerial Committee, to data files enabling the identification of any natural or legal person who holds or controls payment accounts or bank accounts identified by an IBAN number or safe-deposit boxes²⁰; and the protection of individuals with regard to the processing of personal data by the State Intelligence Service.²¹

The Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security, as well as the Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime²² came into force on 20 August 2018. According to these, the National Commission for Data Protection is responsible for monitoring and verifying legal compliance of the processing of personal data by the State Intelligence Service.²³ In this regard, the National Commission for Data Protection enjoys significant investigative, corrective, authorisation, and advisory powers²⁴. The National Commission for Data Protection handles complaints, investigates, to the extent appropriate, the subject matter of such complaints, and informs the complainant of the progress and the outcome of the investigation within a reasonable period²⁵. The decision of the National Commission for Data Protection regarding a complaint is subject to a judicial appeal²⁶.

During the legislative process, the National Commission for Data Protection issued an opinion²⁷ raising concerns regarding Bill n.º 7168²⁸ that formed the basis for the Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security. Some of these concerns were not addressed in the final version of the Act of 1 August 2018 approved by the Chamber of Deputies. These include the lack of an adequate legal basis regarding time-limits for storage and review of personal data as well as specific data processing activities²⁹; legal uncertainty regarding the enhanced right to information of data subjects³⁰; and the lack of precision regarding the limitations to the right of access³¹ and to the right to rectification or erasure³².

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
LU			State Intelligence Service/Service de renseignement de l'État (SRE) ³³	

¹⁶See Committee of Parliamentary Control of the State Intelligence Service, annual activity reports of [2016](#), [2017](#), [2018](#), [2019](#), [2020](#) and [2021](#).

¹⁷ [Act of 1 August 2018](#) on the processing of passenger name record (*Loi du 1^{er} août 2018 relative au traitement des données des dossiers passagers*), article 39.

¹⁸ Council Decision 2007/533/JHA, of 12 June 2007, on the establishment, operation and use of the second generation Schengen Information System (SIS II).

¹⁹ [Act of 10 August 2018](#) amending the Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 10 août 2018 portant modification de la loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*), article 2.

²⁰ [Act of 25 March 2020](#) establishing a central electronic data research system for IBAN accounts and safe deposit boxes (*Loi du 25 mars 2020 instituant un système électronique central de recherche de données concernant des comptes IBAN et des coffres-forts*), article 12.

²¹ [Act of 1 August 2018](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1^{er} août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*).

²² [Act of 1 August 2018](#) on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*).

²³ [Act of 1 August 2018](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security, article 1(2)(b), read together with article 39. See, also, article 4(3) of [Act of 1 August 2018](#) on the organisation of the National Commission for Data Protection and the general data protection regime and article 10 of [Act of 5 July 2016](#).

²⁴ [Act of 1 August 2018](#) on the organisation of the National Commission for Data Protection and the general data protection regime, articles 13 and 14, as well as [Act of 1 August 2018](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security, article 47.

²⁵ [Act of 1 August 2018](#) on the organisation of the National Commission for Data Protection and the general data protection regime, article 8, and [Act of 1 August 2018](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security, article 44.

²⁶ [Act of 1 August 2018](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security, article 45.

²⁷ National Commission for Data Protection, [Opinion of the National Commission for Data Protection on Bill n.º 7168](#) (*Avis de la Commission nationale pour la protection des données sur le Projet de Loi n.º 7168*), 28 December 2017.

²⁸ [Bill n.º 7168](#) on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Projet de Loi n.º 7168 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*).

²⁹ National Commission for Data Protection, [Opinion of the National Commission for Data Protection on Bill n.º 7168](#) (*Avis de la Commission nationale pour la protection des données sur le Projet de Loi n.º 7168*), 28 December 2017, p. 2.

³⁰ National Commission for Data Protection, [Opinion of the National Commission for Data Protection on Bill n.º 7168](#) (*Avis de la Commission nationale pour la protection des données sur le Projet de Loi n.º 7168*), 28 December 2017, p. 4.

³¹ National Commission for Data Protection, [Opinion of the National Commission for Data Protection on Bill n.º 7168](#) (*Avis de la Commission nationale pour la protection des données sur le Projet de Loi n.º 7168*), 28 December 2017, p. 4.

³² National Commission for Data Protection, [Opinion of the National Commission for Data Protection on Bill n.º 7168](#) (*Avis de la Commission nationale pour la protection des données sur le Projet de Loi n.º 7168*), 28 December 2017, p. 5.

³³ [Act of 5 July 2016](#) reorganising the State Intelligence Service (*Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*), article 1.

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.*

Since coming into force, on 1 October 2016, Act of 5 July 2016 reorganising the State Intelligence Service has been modified three times in 2018 and once in 2020 by the following legal acts:

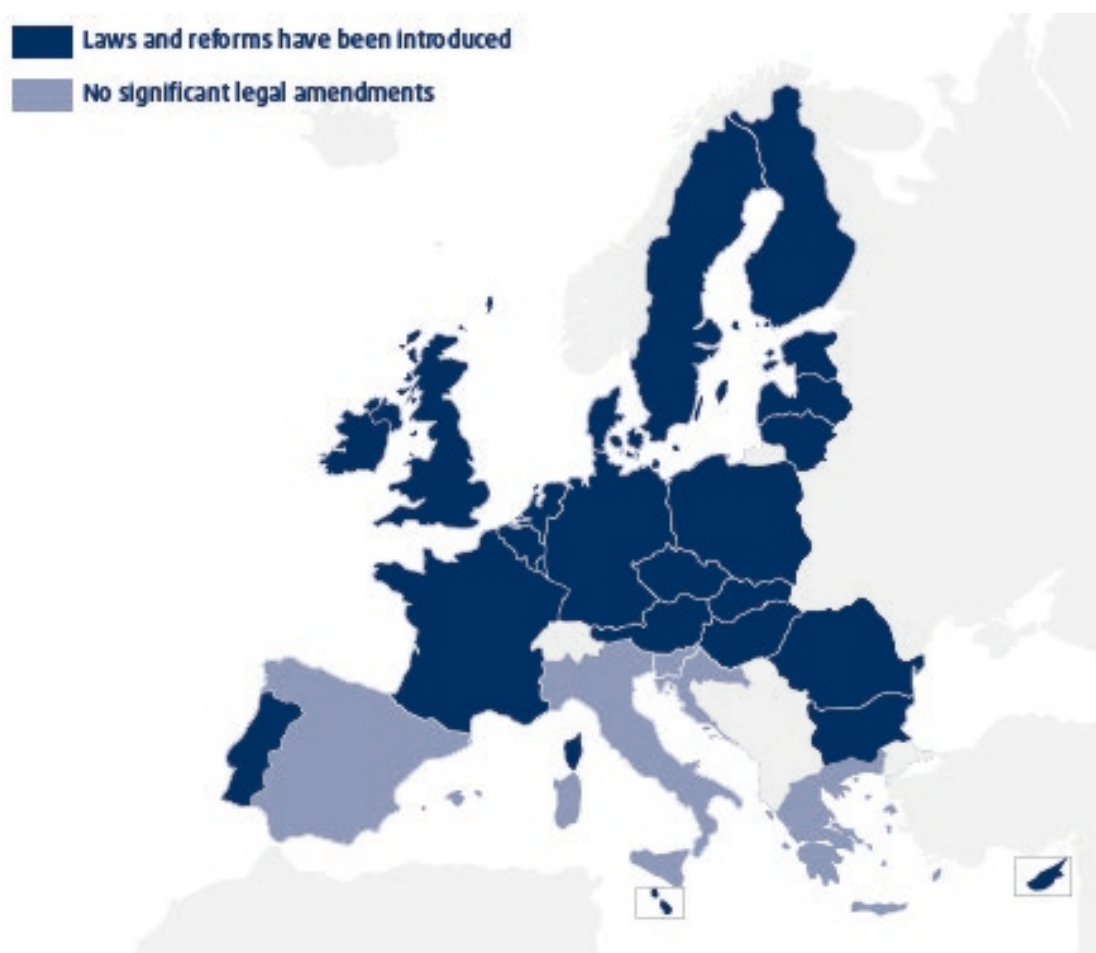
- Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1er août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*);
- Act of 1 August 2018 on the processing of passenger name record (*Loi du 1er août 2018 relative au traitement des données des dossiers passagers*);
- Act of 10 August 2018 amending the Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 10 août 2018 portant modification de la loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*);
- Act of 25 March 2020 establishing a central electronic data research system for IBAN accounts and safe deposit boxes (*loi du 25 mars 2020 instituant un système électronique central de recherche de données concernant des comptes IBAN et des coffres-forts*).

Luxembourg should therefore stay in the same category in the map.

2. *whether the reform was initiated in the context of the PEGASUS revelations.*

These modifications were not introduced in the context of the PEGASUS revelations.

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

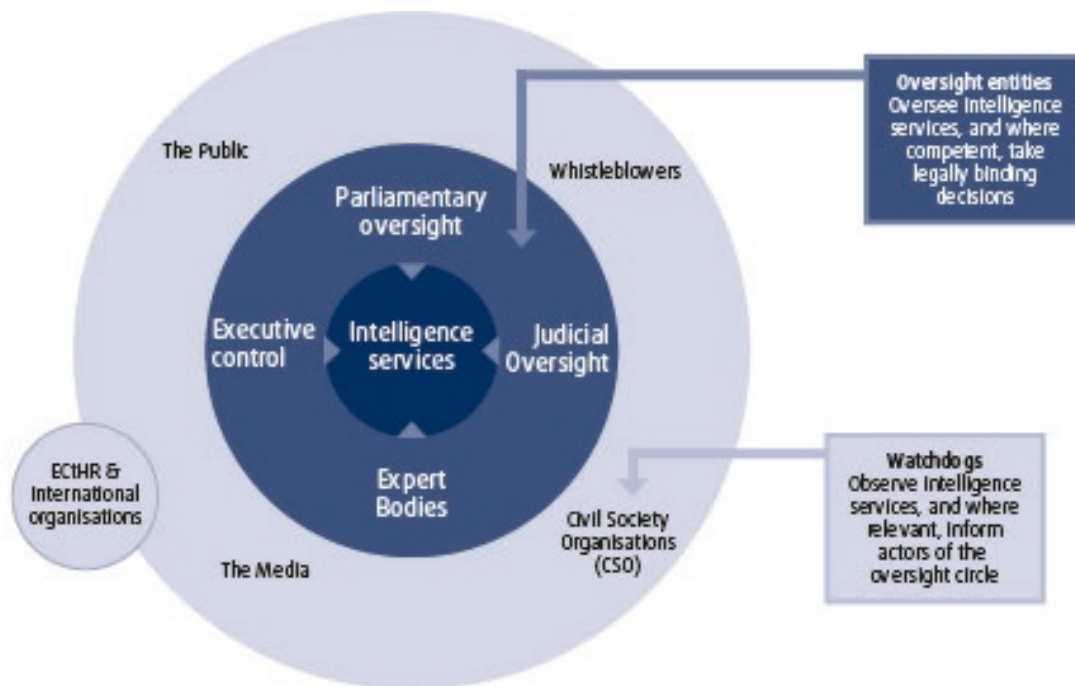


2.3. Intelligence services' accountability scheme

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.

I confirm that the diagram below illustrates the situation in Luxembourg in an accurate manner.

Figure 5: Intelligence services' accountability scheme

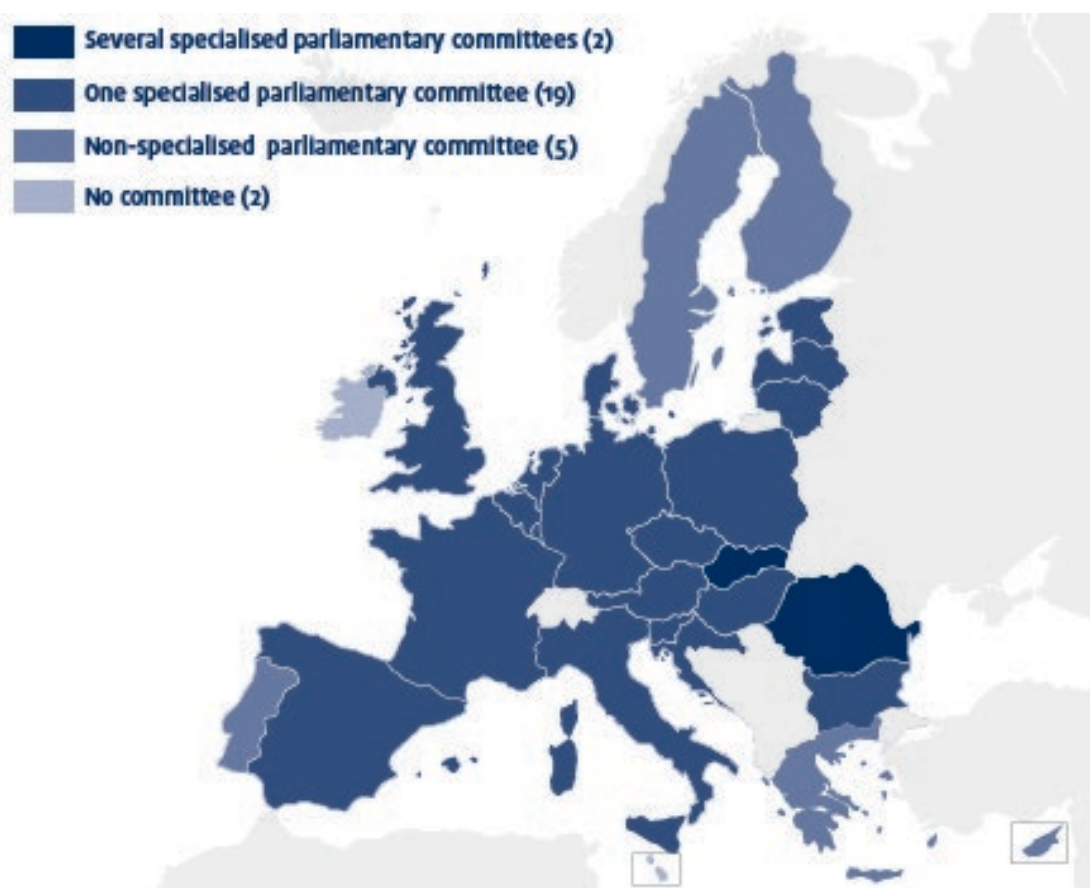


2.4. Parliamentary oversight of intelligence services in EU Member States

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.

I confirm that the map below illustrates the situation in Luxembourg in an accurate manner. There is one specialised parliamentary commission that insures oversight of SRE (Act of 5 July 2016 reorganising the State Intelligence Service (Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État), article 23, and Internal Regulation of the Chamber of Deputies, article 30).

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



2.5. 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.

In light of the oversight framework referred to by the EU Agency for Fundamental Rights and the characteristics it attributes to expert bodies³⁴, in a case such as that of the Special Commission, which is composed of three judges and only oversees legality and fundamental rights protection, its qualification as an expert body is supported by the following indicators: collective nature of the Commission; involvement in overseeing surveillance measures; access to classified information and issuance of binding decisions; and exclusive dedication to intelligence service oversight. This understanding is further supported by the partial resemblances bared by the Special Commission with the composition and mission of the German expert body G10 Commission.³⁵

³⁴ See FRA (European Union Agency for Fundamental Rights) (2017), *Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – Volume II: field perspectives and legal update*, Luxembourg, Publications Office of the European Union, notably p. 64.

³⁵ See FRA (European Union Agency for Fundamental Rights) (2017), *Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – Volume II: field perspectives and legal update*, Luxembourg, Publications Office of the European Union, p. 132; FRA (European Union Agency for Fundamental Rights) (2017), *Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – Volume II: field perspectives and legal update*, Luxembourg, Publications Office of the European Union, p. 132

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

EU Member State	Expert Bodies
LU	Special Commission (<i>Commission Spéciale</i>)

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

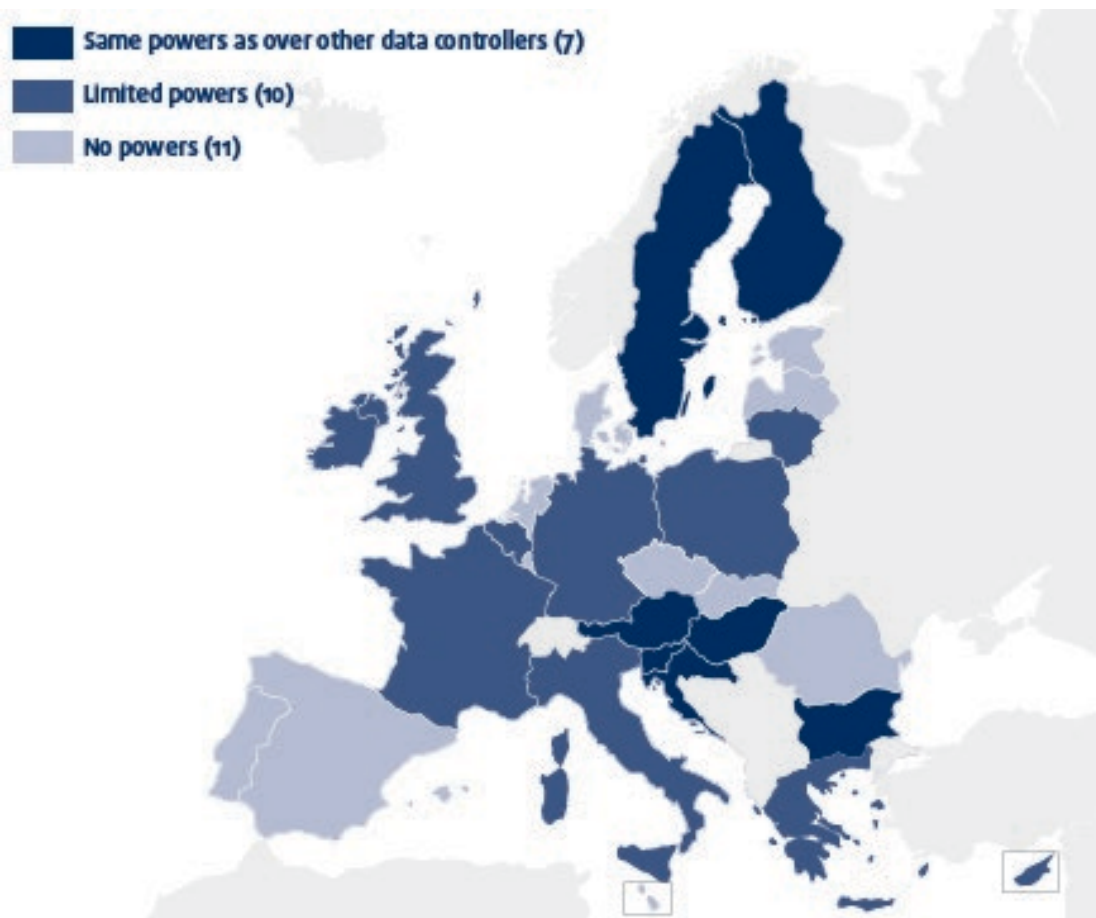
FRANET contractors are requested to confirm that the map below (Figure 7 (p. 81) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the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

Article 7 of the Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*) states that, in the framework of Regulation (EU) 2016/679, the National Commission for Data Protection has the powers enshrined in Article 58 of that same Regulation.

Article 8 of the same Act makes no distinction in powers of oversight of the National Commission for Data Protection depending on the data controller that processes personal data in criminal matters and in matters of national security under the Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1^{er} août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*). That being said, those powers are limited when compared to those enjoyed by the National Commission for Data Protection under Article 7 of the Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime. Indeed, such powers correspond only to those enshrined in article 58(1)(e), (2)(a), (d), (f), (g), (i), (3)(a) and (b), (4) and (5) of Regulation (EU) 2016/679.

As such, we suggest Luxembourg be placed in the category «Limited Powers».

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

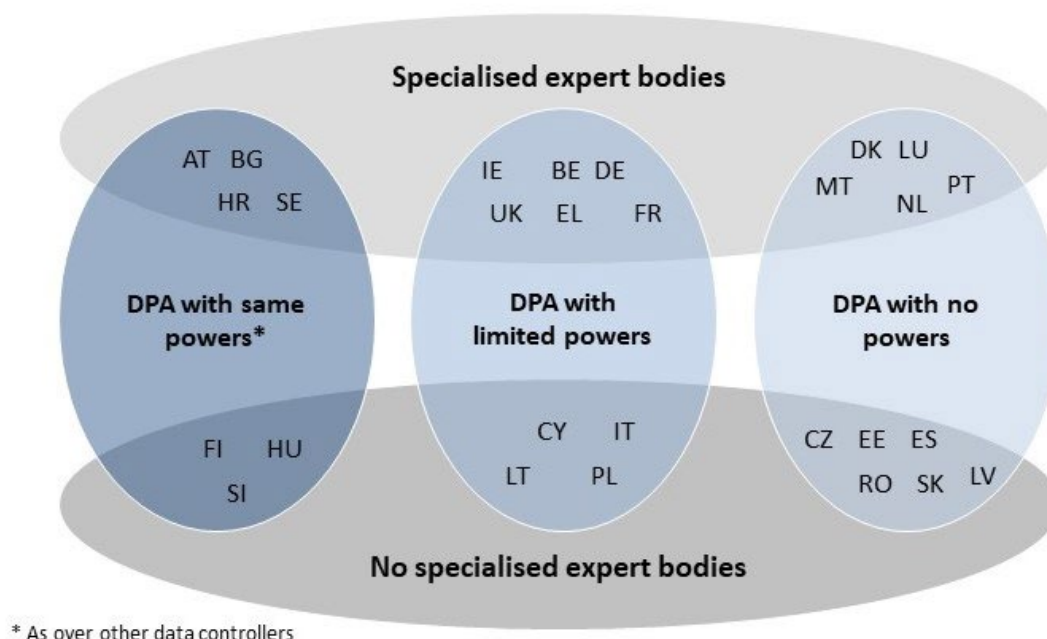


2.7. DPAs' and expert bodies' powers over intelligence techniques, by EU Member State

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.

We suggest placing Luxembourg in the following position –Specialised expert bodies + DPA with limited powers. Regarding the limited powers of the DPA, please refer to question 2.6. Regarding the existence of an expert body (excluding DPAs) overseeing intelligence services, please refer to question 2.5.

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



2.8. 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
LU	✓	✓ ³⁶	✓ ³⁷	

2.9. 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).

³⁶ Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*), articles 7 and 8.

³⁷ Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*), articles 7(4) and 8(3).

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

	Judicial	Parliamentary	Executive	Expert
DE		✓		✓
FR			✓	
NL	✓		✓	✓
SE				✓
LU ³⁸	N.A.	N.A.	N.A.	N.A.

2.10. 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
LU		✓	✓ ³⁹		

2.11. Implementing effective remedies

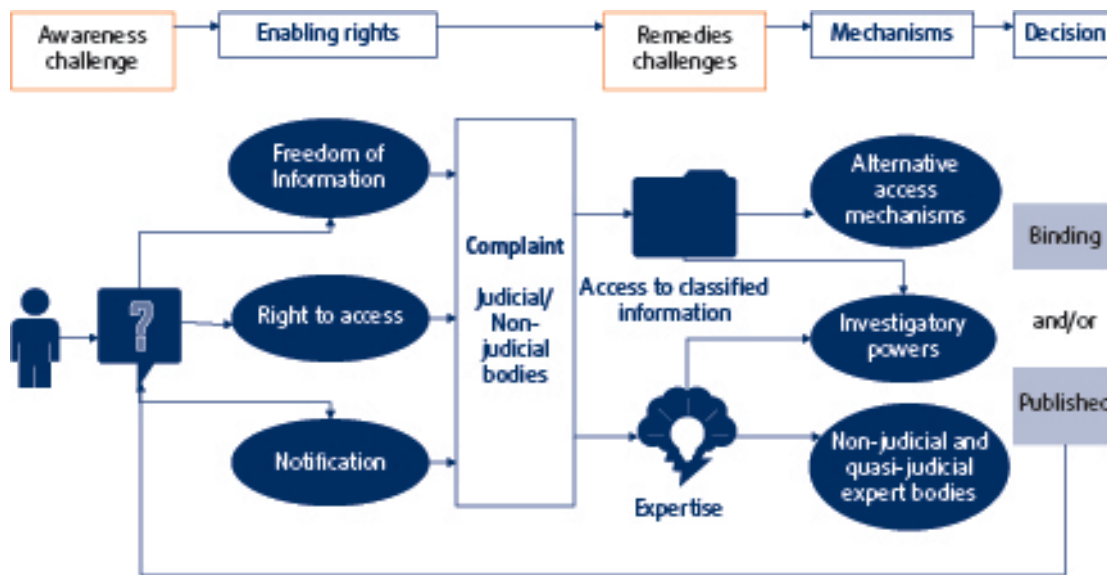
FRANET contractors are requested to confirm that the diagram below (Figure 9 (p. 114) of the FRA 2017 report) illustrates the situation in your Member State in an accurate manner. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to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

I confirm that the diagram below illustrates the situation in Luxembourg in an accurate manner, with the exception of the remedies challenges relating to access to classified information. In this regard, please refer to question 2.12.

³⁸ Article 4 of Act of 5 July 2016 reorganising the State Intelligence Service (*Loi du 5 juillet 2016 portant réorganisation du Service de renseignement de l'État*) states the following: «The SRE may only implement means or measures of investigation if (a) the mean or measure is targeted at one or more natural or legal persons, identified or identifiable; (...)».

³⁹ Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1er août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*), article 16; and Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*), article 8

Figure 9: Implementing effective remedies: challenges and solutions



2.12. 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
LU	Control Authority «Article 17»				
	National Commission for Data Protection	40	41	42	43

2.13. 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.

We suggest placing Luxembourg in the following position – DPA's with limited powers but full remedial competence. Regarding the limited powers of the DPA, please refer to question 2.6. Regarding the full remedial competence of DPAs, please refer to question 2.12.

⁴⁰ Article 14 (3) and (4) of Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*), read in conjunction with article 47 of Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1^{er} août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*).

⁴¹ Article 14(1) of Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*).

⁴² Articles 16(3) and 44 (5) of Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1^{er} août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*) and article 8 (6) of Act of 1 August 2018 on the organisation of the National Commission for Data Protection and the general data protection regime (*Loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données*).

⁴³ Article 16(3) and 45 (2) of Act of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters and in matters of national security (*Loi du 1^{er} août 2018 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel en matière pénale ainsi qu'en matière de sécurité nationale*).

Figure 10: DPAs' remedial competences over intelligence services

