

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

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Country: Latvia

FRANET contractor: Latvian Centre for Human Rights

Author(s) name(s): Latvian Centre for Human Rights

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Table of Contents

1. Summary	3
2. Annexes- Table and Figures	4
2.1. Overview of security and intelligence services in the EU-27	4
2.2. EU Member States' legal framework on surveillance reformed since 2017	5
Figure 1: EU Member States' legal frameworks on surveillance reformed since October 2015.....	6
2.3. Intelligence services' accountability scheme	6
Figure 5: Intelligence services' accountability scheme	7
2.4. Parliamentary oversight of intelligence services in EU Member States	7
Figure 6: Parliamentary oversight of intelligence services in EU Member States	8
2.5. Expert bodies (excluding DPAs) overseeing intelligence services in the EU.....	8
Table 2: Expert bodies (excluding DPAs) overseeing intelligence services in the EU	8
2.6. DPAs' powers over national intelligence services, by member states	8
Figure 7: DPAs' powers over national intelligence services, by member states	9
2.7. DPAs' and expert bodies' powers over intelligence techniques, by EU Member State	9
Figure 8: DPAs' and expert bodies' powers over intelligence techniques, by EU Member State	10
2.8. Binding authorisation/approval of targeted surveillance measures in the EU.....	10
Table 4: Binding authorisation/approval of targeted surveillance measures in the EU-27.....	10
2.9. Approval/authorisation of general surveillance of communication.....	10
Table 5: Approval/authorisation of general surveillance of communication in France, Germany, the Netherlands and Sweden.....	11
2.10. Non-judicial bodies with remedial powers	11
Table 6: Non-judicial bodies with remedial powers in the context of surveillance, by EU Member State.....	11
2.11. Implementing effective remedies.....	11
Figure 9: Implementing effective remedies: challenges and solutions.....	11
2.12. Non-judicial bodies' remedial powers	12
Table 7: Non-judicial bodies' remedial powers in case of surveillance, by EU Member State.....	12
2.13. DPAs' remedial competences	13
Figure 10: DPAs' remedial competences over intelligence services.....	14

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 Latvia, the legal framework on surveillance has not been reformed and is not in the process of being reformed since mid-2017.¹ There have been no changes to the parliamentary oversight of intelligence services, the parliamentary National Security Commission remains the sole oversight body. It has not issued any public reports/statements about the national legal framework in the area of surveillance by intelligence services.² There are no expert bodies (excluding DPAs) overseeing intelligence services in Latvia. DPA has no powers over intelligence services.³ There have been no changes concerning binding authorization/approval of targeted measures in Latvia during the period under review. There are no non-judicial bodies with remedial powers in the context of surveillance in Latvia.

The Law on State Security Agencies (*Valsts drošības iestāžu likums*) was amended in 2018, establishing a uniform career development for the service in all state security agencies – Constitutional Protection Bureau (*Satversmes aizsardzības birojs*), State Security Service (*Valsts drošības dienests*) and Defence

¹ Latvia, [Law “On State Security Institutions”](#) (*Valsts drošības iestāžu likums*), 5 May 1994, [On Official Secret](#) (*Par valsts noslēpumu*), 17 October 1997, [Constitution Protection Bureau Law](#) (*Satversmes aizsardzības biroja likums*), [Operational Activities Law](#) (*Operatīvās darbības likums*), 16 December 1993

² Latvia, Saeima. [National Security Commission](https://www.saeima.lv/faktulapas/nacionalas_drosibas_komisijalv.pdf) (*Nacionālās drošības komisija*). https://www.saeima.lv/faktulapas/nacionalas_drosibas_komisijalv.pdf

³ [Law “On State Security Institutions”](#) (*Valsts drošības iestāžu likums*), 5 May 1994

Intelligence and Security Service (MIDD). The former Security Police (*Drošības policija*) was renamed State Security Service. Except for selected rights concerning investigation (crimes related to national security) and preventive work, the work of the State Security Service is no longer regulated in the law On Police. The amendments came into force on 1 January 2019.

Pursuant to the amendments to the Law on Official Secret (*Grozījumi likumā "Par valsts noslēpumu"*) (Articles 16,17), which came into force on 1 July 2018, the decision of a state security agency to deny the access to national classified information can be contested before the Prosecutor General, whose decision can be further appealed to the Regional Administrative Court. The new regulation requires the court to hear the case within a shortened term - two months from accepting the application and initiating the case. A person can re-apply for a security clearance in five years, if the grounds for denying access to national classified information no longer exist. The amendments were adopted in response to the Constitutional Court judgement of 10 February 2017 in the case No. 2016-06-01 "On the Law "On State Secret" as it concluded that certain provisions determining the procedure to cancel certificates to access national classified information do not meet the Constitution (right to fair trial).

The Constitution Protection Bureau (*Satversmes aizsardzības birojs, SAB*) hosts the technical facilities and equipment that ensures legal mobile interception for law enforcement agencies and state security agencies. The data obtained during the interception are transferred to the initiator of the particular interception who is legally able to perform specific intelligence activities and has received a warrant from the Justice of the Supreme Court. According to the annual reports of SAB, it has not committed any violations regarding mobile phone interception in 2021, 2020, 2019, 2018, 2017.

In 2018, the investigative news programme *De facto* of Latvian TV reported⁴ that the IT systems of Interior Ministry have been affected by spyware, probably of Russian origin. The breach was discovered by CERT.LV [the national cyber security agency] in 2015 after Interior Ministry systems were merged under a single watchdog. The official of the Constitution Protection Bureau stressed that the IT infection was discovered in public infrastructure and was not related to such information systems that are used to process classified information. The issue was discussed in a closed National Security Council meeting. Even though the spyware was discovered three years ago [2015], the ministry had trouble solving the problem. The ministry was granted extra funding to solve the security risks, and an audit was expected at the joint Interior Ministry system. There are no public reports available about the issue.

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.

The Law on State Security Agencies (*Valsts drošības iestāžu likums*) was amended in 2018, establishing a uniform career development for the service in all state security agencies – Constitutional Protection Bureau (*Satversmes aizsardzības birojs*), State Security Service (*Valsts drošības dienests*) and Defence Intelligence and Security Service (MIDD). The former Security Police (*Drošības policija*) was renamed State Security Service. Except for selected rights concerning investigation (crimes related to national security) and preventive work, the work of the State Security Service is no longer regulated in the law On Police. The amendments came into force on 1 January 2019.

⁴ LSM.LV (2018). [Probable Russian spyware discovered in Latvia's Interior Ministry system](#), November 26.

	Civil (internal)	Civil (external)	Civil (internal and external)	Military
LV	State Security Service/Valsts drošības dienests (VDD) ⁵ Security Police/Drošības policija	Constitutional Protection Bureau/Satversmes aizsardzības birojs (SAB)		Military Intelligence and Security Service/ <i>Militārās izlūkošanas un drošības dienests</i> (MISS)

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:

*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.*

In Latvia, the legal framework on surveillance has not been reformed and is not in the process of being reformed since mid-2017.⁶

Whether the reform was initiated in the context of the PEGASUS revelations.

N.A.

⁵ Latvia, Saeima (2018). Amendments to the Law on State Security Institutions (Grozījumi Valsts drošības iestāžu likumā), adopted 04.10.2018, in force 01.01.2019, Ex-Ante Impact Assessment of the Amendments to the Law on State Security Institutions.

⁶ Latvia, [Law “On State Security Institutions” \(Valsts drošības iestāžu likums\)](#), 5 May 1994, [On Official Secret \(Par valsts noslēpumu\)](#), 17 October 1997, [Constitution Protection Bureau Law \(Satversmes aizsardzības biroja likums\)](#), [Operational Activities Law \(Operatīvās darbības likums\)](#), 16 December 1993

Legend:

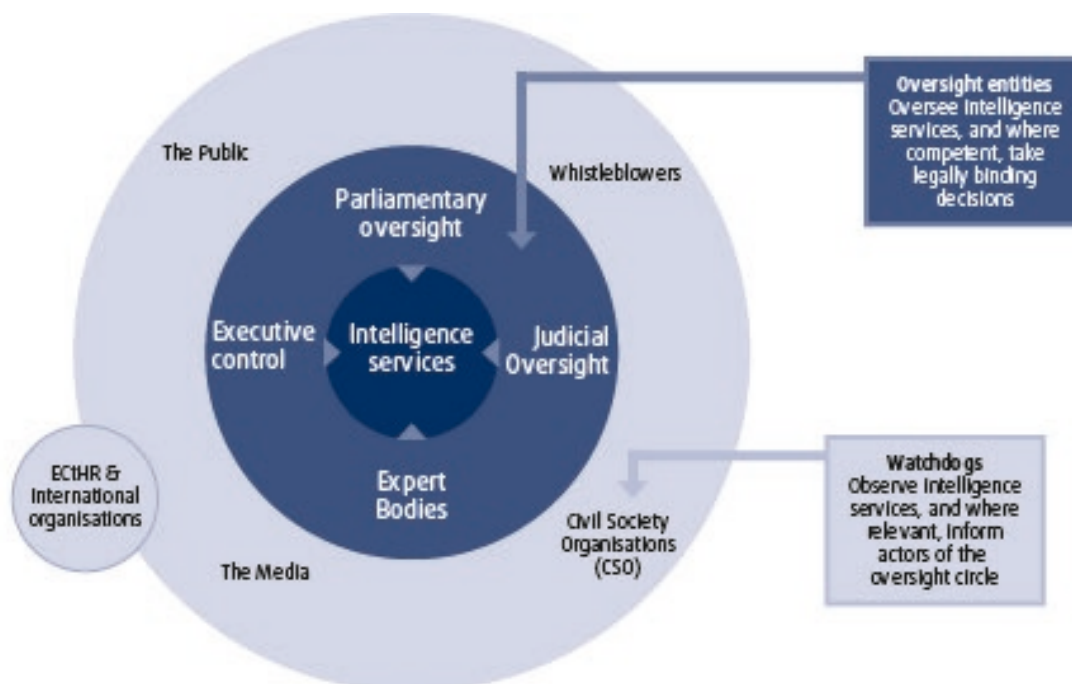
- Laws and reforms have been introduced
- No significant legal amendments

The map shows that most European countries have introduced laws and reforms, while a few countries, such as Spain, Italy, and Greece, have not introduced significant legal amendments.

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.

6

Figure 5: Intelligence services' accountability scheme



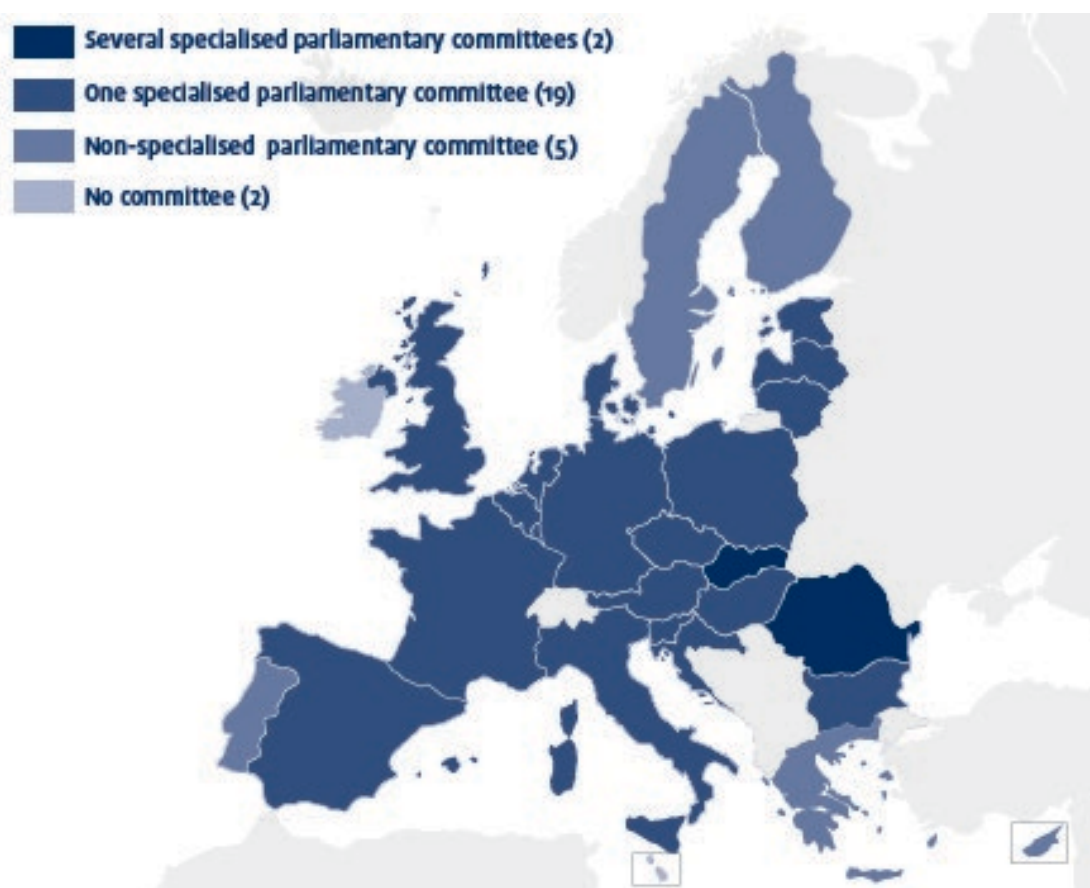
2.4. Parliamentary oversight of intelligence services in EU Member States

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.

There have been no changes to the parliamentary oversight of intelligence services, the parliamentary National Security Commission remains the sole oversight body. It has not issued any public reports/statements about the national legal framework in the area of surveillance by intelligence services.⁷

⁷ Latvia, Saeima. [National Security Commission \(Nacionālās drošības komisija\)](https://www.saeima.lv/faktulapas/nacionalas_drosibas_komisijalv.pdf).
https://www.saeima.lv/faktulapas/nacionalas_drosibas_komisijalv.pdf

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.

There are no expert bodies (excluding DPAs) overseeing intelligence services in Latvia.⁸

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

EU Member State	Expert Bodies
LV	N.A.

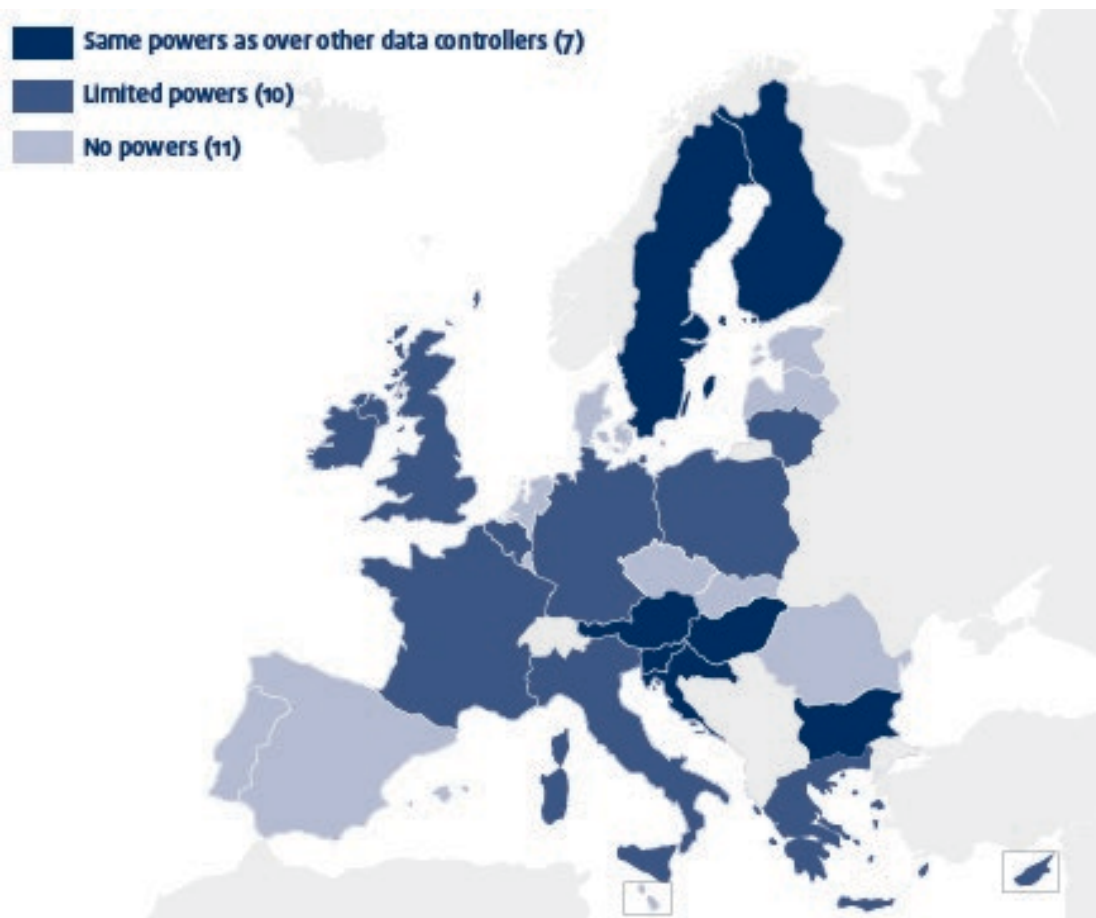
2.6. DPAs' powers over national intelligence services, by member states

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.

DPA has no powers over intelligence services in Latvia, the map illustrates the situation in Latvia in an accurate manner.

⁸ [Law "On State Security Institutions"](#) (*Valsts drošības iestāžu likums*), 5 May 1994

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

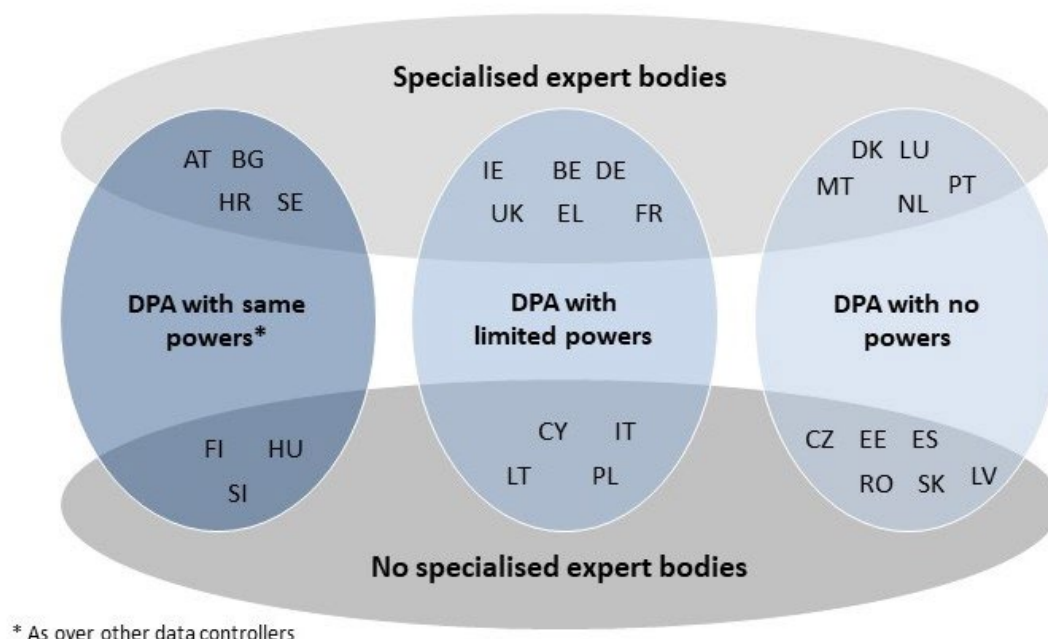


2.7. DPAs' and expert bodies' powers over intelligence techniques, by EU Member State

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.

The information regarding Latvia is correct.

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.

The information regarding Latvia is correct.

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

	Judicial	Executive	Expert bodies	Services
LV	✓			

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).

There have been no changes concerning approval/authorisation of general surveillance of communication in Latvia.

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

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

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.

There are no non-judicial bodies with remedial powers in the context of surveillance in Latvia.

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

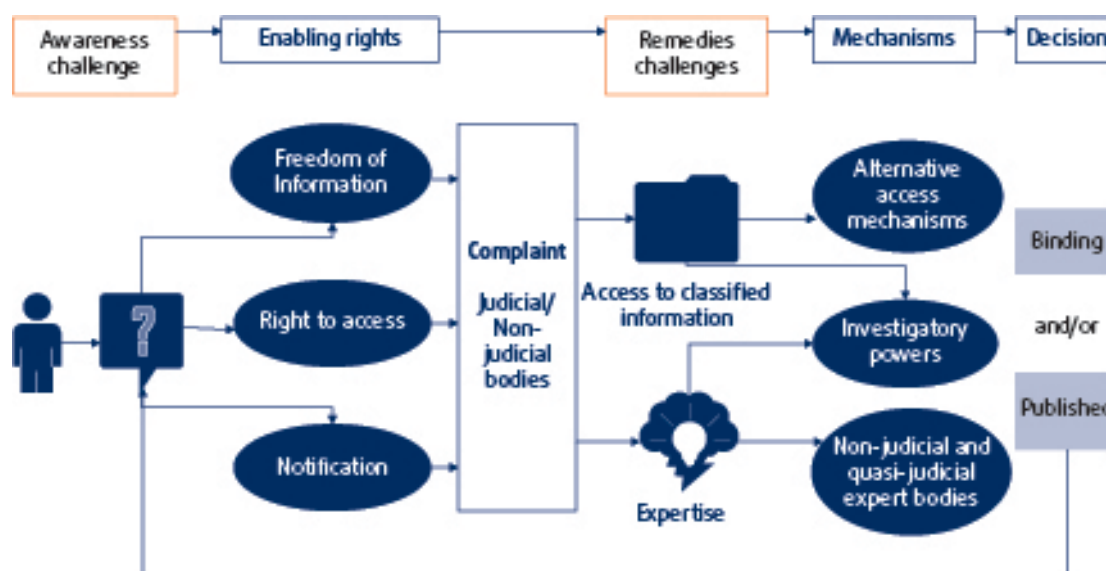
	Executive (ministry)	Expert body(ies)	DPA	Parliamentary committee(s)	Ombuds institution
LV					

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.

The diagram below illustrates the situation in Latvia in an accurate manner.

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.

The absence of information concerning Latvia is correct.

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
AT	Legal Protection Commissioner				
	Austrian Ombudsman Board				
	Austrian Data Protection Authority				
BE	Standing Committee I				
	The federal Ombudsman				
	Privacy Commission				
BG	Commission for Personal Data Protection				
	Committee for Oversight of the Security Services				
CY	Commissioner for Personal Data Protection				
DE	G10 Commission				
	Federal Data Protection Commissioner				
	Parliamentary Control Panel				
DK	Danish Intelligence Oversight Board				
EE	Chancellor of Justice				
EL	Hellenic Data Protection Authority				
ES	Spanish Ombudsman				
FR	National Commission for Control of Intelligence Techniques				
	Defender of Rights				
	National Commission on Informatics and Liberty				
FI	Parliamentary Ombudsman				
	Office of the Data Protection Ombudsman				
HR	Council for Civic Oversight of Security and Intelligence Agencies				
	Ombudsman of the Republic of Croatia				
	Personal Data Protection Agency				
	Committee for Internal Affairs and National Security				
HU	Commissioner for Fundamental Rights				
	Data Protection Commissioner				
	Parliamentary Committee for National Security				
	Relevant ministries				
IE	Complaints Referee				
	Data Protection Commissioner				
IT	Garante per la protezione dei dati personali				
	Control Authority «Article 17»				

LU	National Commission for Data Protection				
LT	Ombudsperson				
	State Data Protection				
	Parliamentary Committee on National Security and Defence				
MT	Commissioner of the Security Service				
NL	Review Committee for the Intelligence and Security Services				
PT	Council for the Oversight of the Intelligence				
	Portugese Ombudsman				
RO	Parliamentary Committees				
SE	Swedish Foreign Intelligence Inspectorate (SIUN)				
	Commission on Security and Integrity Protection (SIN)				
	Swedish Data Protection Authority (Datainspektionen)				
	Human Rights Ombudsman				
SI	Information Commissioner				
	Parlm. Supervision of the Intelligence and Security Services Act				
SK	Commission to Supervise the Use of IT Tools				

Note:

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

Source: FRA, 2017

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.

The absence of information concerning Latvia is correct (no remedial competence by DPA).

Figure 10: DPAs' remedial competences over intelligence services

