

Short Thematic Report

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

Legal update

FRANET GUIDELINES

1 Background information

Following Edward Snowden's disclosures, in June 2013, about surveillance programmes in the United States, the United Kingdom and other EU Member States, the EU institutions reacted promptly. A number of political declarations, resolutions and reports have been issued since June 2013. In particular, the European Parliament (EP) decided to conduct an in-depth inquiry on the US National Security Agency (NSA) surveillance programme. The inquiry's results served as a background to the European Parliament *Resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights*, which called on the Fundamental Rights Agency to "undertake in-depth research on the protection of fundamental rights in the context of surveillance, and in particular on the current legal situation of EU citizens with regard to the judicial remedies available to them in relation to those practices".¹ The relevance of the request was highlighted in the European Parliament *Resolution of 29 October 2015 on the follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens*, which states that the EP "intends to take account of the findings of the in-depth research by the Fundamental Rights Agency concerning the protection of fundamental rights in the context of surveillance, and in particular regarding the current legal situation of individuals with respect to the remedies available to them in relation to the practices concerned" (para. 52).²

Work on the project commenced in 2014 and is divided into the following four phases. This short thematic report relates to phase three of the project:

- **Phase 1 (completed)** - Following the EP request, FRA issued a Ad hoc information request to FRANET. The FRANET Guidelines are available on the FRA's project page: <http://fra.europa.eu/en/project/2014/national-intelligence-authorities-and-surveillance-eu-fundamental-rights-safeguards-and>. FRANET national information reports -from this first phase- will be made available to FRANET contractors in the context of this short thematic report. In November 2015, FRA published its report on *Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – mapping Member States' legal framework* (FRA Report). The FRANET national ad hoc information reports were used as background material for the drafting of this comparative report (reporting period 2011 until 18 August 2014).
- **Phase 2 (underway)** - Fieldwork research: From November 2015 to June 2016, FRA intends to conduct fieldwork research in the following seven Member States: Belgium, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom.
- **Phase 3 (underway)** – Legal update of the FRA Report aiming at providing FRA with the most up-to-date information on legal frameworks in the EU Member States. Phase three relates to these guidelines.
- **Phase 4** – Publication in 2017 of a new and updated FRA report combining the results of phase 2 and phase 3.

FRANET contractors will need to read the above-mentioned documents and reports that frame the exact scope and context of the FRA comparative report. FRANET contractors should also read and consider key documents referenced in the FRA comparative report, in particular those published by the United Nations and the Council of Europe (Venice Commission and Parliamentary Assembly of the Council of Europe, European Parliament etc.), since the completion of the FRANET national information reports prepared in the context of the above-mentioned 2014 Ad-hoc information request.

¹ www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0230

² <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0388&language=EN&ring=B8-2015-1092>

2 Objective

The objective of this deliverable is to collect information on fundamental rights compliance in the area of surveillance (both targeted and untargeted surveillance)³ as well as information on available remedies in the Member States in the context of large-scale surveillance by State actors. The data and information provided by the contractors will help the Agency to map fundamental rights safeguards and remedial procedures on surveillance issues in a comparable manner across the 28 EU Member States.

3 Delivery deadline

12 May 2016	Short Thematic Report delivered to FRA
26 May 2016	FRA comments (request for revisions, if needed)
9 June 2016	Revised Short Thematic Report delivered to FRA
23 June 2016	FRA comments (request for revision, if needed)
30 June 2016	Final Short Thematic Report delivered to FRA

4 Reference period

Analysis and information provided should **reflect the most recent situation** and include developments since the publication of the FRA report on [Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – mapping Member States’ legal framework](#) drawing, where relevant, on the FRANET national reports produced in the context of the 2014 Ad hoc information request.

5 Research methodology

The short thematic report will rely on desk research but will also require contacts with organisations and/or practitioners working in relevant fields to cross-check findings from the desk research. In particular, contacts with data protection authorities, oversight bodies in parliament or specialised expert oversight bodies will be needed.

The short thematic report has to build upon - rather than repeat - directly relevant information obtained within the framework of the research conducted by FRANET or published in the FRA comparative Report.

The FRANET contractors should use the terminology used in the FRA Report. For example, the reference to ‘intelligence services’ includes security services and intelligence services (see p. 13 of the FRA Report) or ‘signals intelligence’ (SIGINT) covers several collection methods but the FRA Report focuses mainly on communication intelligence or digital intelligence (see p. 15 and following of the FRA Report).

³ See definitions in FRA (European Union Agency for Fundamental Rights) (2015), *Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – Mapping Member States’ legal frameworks*, Luxembourg, Publications Office of the European Union (Publications Office), p. 15 and following.

If data or information is not available from either the public domain or from government officials, please indicate so with a brief explanation as well as with an explanation in the evaluation sheet in the self-assessment section of how the following steps were implemented to collect the data: including desk research; ad hoc requests for information (letters, phone calls, emails, etc.), other sources). Please include dates on which such emails, letters etc. were sent or dates of interviews in your evaluation sheet, etc.

6 Style, language and size

The material provided must be properly referenced following the FRA Style Guide. Important: This means that each substantive statement has to be referenced to a source of scientific quality (official document, academic writing, interview referenced fully, etc.). All sources of data/information included as text or tables/diagrams should be fully referenced. Whenever possible, reference should be made to the original source and preferably to official sources. Reference to media sources must be kept to the absolute minimum. If data/information is available online, the relevant Internet addresses must be provided; where data is available in both English and national language, the Internet address of the English version should be provided.

Please note that the complete bibliographical references must be given in a footnote in accordance with the FRA style guide.

With regard to questions relating to procedures that stem from a piece of legislation, please be sure to provide a full reference to that piece of legislation rather than any academic interpretation of that legislation.

Size: approximately **10–15 A4 pages** (excluding annexes).

7 Description of tasks – Phase 3 legal update

7.1 Summary

FRANET contractors are requested to highlight in 1 to 2 pages **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 snap shot of the evolution during the report period (last trimester of 2014 until mid-2016). It should in particular mention:

1. the legislative reform(s) that took place or are taking place and highlight the key aspect(s) of the reform.
2. the important (higher) court decisions in the area of surveillance
3. the reports and inquiry by oversight bodies (parliamentary committees, specialised expert bodies and data protection authorities) in relation to the Snowden revelations
4. the work of specific ad hoc parliamentary or non-parliamentary commission (for example the NSA inquiry of the German Parliament) discussing the Snowden revelations and/or the reform of the surveillance focusing on surveillance by intelligence services should be referred to.

7.2 International intelligence services cooperation

FRANET contractors are requested to provide information, in 1 to 2 pages **maximum**, on the following two issues, drawing on a recent publication by Born, H., Leigh, I. and Wills, A. (2015), *Making international intelligence cooperation accountable*, Geneva, DCAF.⁴

1. It is assumed that in your Member State international cooperation between intelligence services takes place. Please describe the legal basis enabling such

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⁴ <http://www.dcaf.ch/Publications/Making-International-Intelligence-Cooperation-Accountable>

cooperation and any conditions that apply to it as prescribed by law. If the conditions are not regulated by a legislative act, please specify in what type of documents such cooperation is regulated (eg. internal guidance, ministerial directives etc.) and whether or not such documents are classified or publicly available.

2. Please describe whether and how the international cooperation agreements, the data exchanged between the services and any joint surveillance activities, are subject to oversight (executive control, parliament oversight and/or expert bodies) in your Member States.

7.3 Access to information and surveillance

FRANET contractors are requested to summarise, in 1 to 2 pages **maximum**, the legal framework in their Member State in relation to surveillance and access to information.

Please refer to the *Global Principles on National Security and the Right to Information (the Tshwane Principles)*⁵ (in particular Principle 10 E. – Surveillance) and describe the relevant national legal framework in this context. FRANET contractors could in particular answer the following questions:

1. Does a complete exemption apply to surveillance measures in relation to access to information?
2. Do individuals have the right to access information on whether they are subject to surveillance?

7.4 Update the FRA report

FRANET contractors are requested to provide up-to-date information based on the FRA report on [Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU – mapping Member States' legal framework](#).

Under each chapter, section and sub-section heading (see Annex 8.1 below), please answer the three following questions.

Please take into account the **Bibliography/References** (p. 79 f. of the FRA report), as well as the **Legal instruments index – national legislation** (p. 88 f. the FRA report) when answering the following questions:

1. If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.
2. If your Member State is mentioned, please update the data (new legislation, new report etc.)
3. If your Member State is not mentioned, please provide data that would call for a specific reference given the relevance of the situation in your Member State to illustrate/complement FRA comparative analysis.

Example 1:

On p. 41 of the FRA Report (sub-section 2.2.4. Reporting to parliament), examples from Austria, Luxembourg, Germany, United Kingdom and France illustrate the analysis. FRANET contractors could refer, when updating the report, to the report made available and shortly describe their content.

Example 2:

On p. 50 f. of the FRA Report (Sub-section 2.3.2. Data protection authorities), two types of cooperation between DPAs and specialised expert bodies are mentioned (an informal way in the Netherlands and a more formal way in Italy). FRANET contractors could highlight when updating the report, the way DPAs and expert bodies interact in their Member States.

⁵ <http://www.right2info.org/exceptions-to-access/national-security/global-principles#section-10>

7.5 Check the accuracy of the figures and tables published in the FRA report (see the annex on Figures and Tables)

FRANET contractors are requested to check the accuracy of the Tables and Figures published in the FRA Report and reproduced in **Annex 8.2** below. Please answer each questions under paragraphs **8.2.1 to 8.2.12**.

8 Annexes

8.1 Table of Contents of the FRA Report

Introduction

1 Intelligence services and surveillance laws

- 1.1 Intelligence services
- 1.2 Surveillance measures
- 1.3 Member States' laws on surveillance

FRA key findings

2 Oversight of intelligence services

- 2.1 Executive control
- 2.2 Parliamentary oversight
 - 2.2.1 Mandate
 - 2.2.2 Composition
 - 2.2.3 Access to information and documents
 - 2.2.3 Reporting to parliament
- 2.3 Expert oversight
 - 2.3.1 Specialised expert bodies
 - 2.3.2 Data protection authorities
- 2.4 Approval and review of surveillance measures

FRA key findings

3 Remedies

- 3.1 A precondition: obligation to inform and the right to access
- 3.2 Judicial remedies
 - 3.2.1 Lack of specialisation and procedural obstacles
 - 3.2.2 Specialised judges and quasi-judicial tribunals
- 3.3 Non-judicial remedies: independence, mandate and powers
 - 3.3.1 Types of non-judicial bodies
 - 3.3.2 The issue of independence
 - 3.3.3 Powers and specialisation of non-judicial remedial bodies

FRA key findings

Conclusions

8.2 Tables and Figures

8.2.1 Overview of security and intelligence services in the EU-28

FRANET contractors are requested to check the accuracy of the table below (see Annex p. 93 of the FRA Report) and add in track changes any missing information (incl. translation and abbreviation in the original language). Please provide the reference to the national legal framework when updating the table.

	Civil (internal)	Civil (external)	Civil (internal and external)	Military
AT	Federal Agency for State Protection and Counter Terrorism/ <i>Bundesamt für Verfassungsschutz und Terrorismusbekämpfung</i> (BVT) (part of the police)			Military Intelligence Service/ <i>Heeresnachrichtendienst</i> (HNA) Military Defence Agency/ <i>Heeresabwehramt</i> (HAA)
BE	State Security/ <i>Staatsveiligheid</i> / <i>Sûreté de l'Etat</i> (SV/SE)			General Intelligence and Security Service of the armed forces/ <i>Algemene Dienst Inlichting en Veiligheid</i> / <i>Service général du renseignement et de la sécurité des Forces armées</i> (ADIV/SGR or SGRS)
BG	State Agency for National Security / <i>Държавна Агенция "Национална сигурност</i> (SANS) State agency "Technical operations" / <i>Държавна агенция „Технически операции</i> (SATO)			Military information service

CY	Central Intelligence Service/ <i>Κεντρική Υπηρεσία Πληροφορικών</i> (KYII)			
CZ	Security Information Service/ <i>Bezpečnostní informační služba</i> (BIS)	Office for Foreign Relations and Information/ <i>Úřad pro zahraniční styky a informace</i> (ÚZSI)		Military Intelligence / <i>Vojenské zpravodajství</i> (VZ)
DE	Federal Office for the protection of the Constitution/ <i>Bundesamt für Verfassungsschutz</i> (BfV)		Federal Intelligence Service/ <i>Bundesnachrichtendienst</i> (BND)	Military Counter-Intelligence Service/ <i>Militärischer Abschirmdienst</i> (MAD)
DK			Danish Security and Intelligence Service/ <i>Politiets Efterretningstjeneste</i> (PET) (part of the police)	Danish Defence Intelligence Service/ <i>Forsvarets Efterretningstjeneste</i> (FE)
EE	Estonian Internal Security Service/ <i>Kaitsepolitseiamet</i> (KAPO)	Information Board/ <i>Teabeamet</i> (TA)		Military Intelligence Branch of the Estonian Defense Forces/ <i>Kaitseväe peastaabi luureosakond</i>

EL	National Intelligence Service/ <i>Εθνική Υπηρεσία Πληροφοριών</i> (EYP)			Directorate of Military Intelligence of the National Defence General Staff/ <i>Διεύθυνση Στρατιωτικών Πληροφοριών του Γενικού Επιτελείου Εθνικής Άμυνας</i>
ES	National Center for the Protection of Critical Infrastructures / <i>Centro Nacional de Protección de Infraestructuras Críticas</i> (CNPIC)		National Intelligence Centre/ <i>Centro Nacional de Inteligencia</i> (CNI) Intelligence Centre on Organised Crime and Terrorism/ <i>Centro de Inteligencia Contra el Terrorismo y el Crimen Organizado</i> (CITCO)	Intelligence Centre of the Armed Forces/ <i>Centro de Inteligencia de las Fuerzas Armadas</i> (CIFAS)
FI	Finnish Security Intelligence Service/ <i>Suojelupoliisi/Skyddspolisen</i> (SUPO) (service belonging to the police)			Finnish Defence Intelligence Agency/ <i>Tiedustelulaitos/underrättelsetjänst</i> (FDIA)
FR	Directorate General of Interior Security/ <i>Direction générale de la sécurité intérieure</i> (DGSI)	Directorate General of External Security/ <i>Direction de la sécurité extérieure</i> (DGSE)		Directorate of Military Intelligence/ <i>Direction du renseignement militaire</i> (DRM)
HR	Security Intelligence Agency/ <i>Sigurnosno-obavještajna agencija</i> (SOA)			Military Security Intelligence Agency/ <i>Vojna sigurnosno-obavještajna agencija</i> (VSOA)

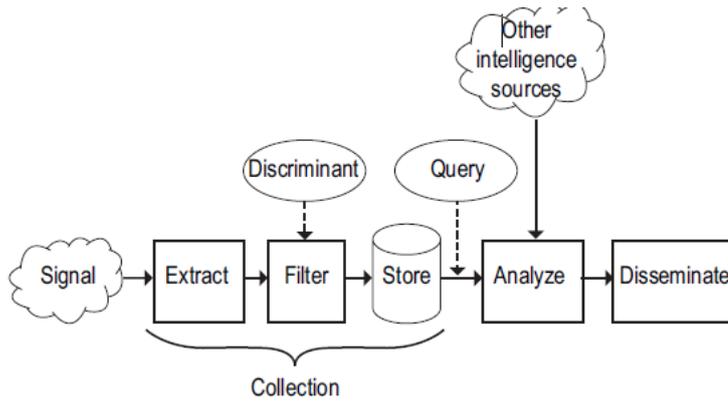
HU	<p>Constitution Protection Office/ <i>Alkotmányvédelmi Hivatal</i></p> <p>Special Service for National Security/ <i>Nemzetbiztonsági Szakszolgálat (NBSZ)</i></p> <p>Counter Terrorism Centre/ <i>Terrorelhárítási Központ (TEK)</i> (service belonging to the police)</p>		<p>Information Office/ <i>Információs Hivatal</i> (MKIH)</p>	<p>Military National Security Service/ <i>Katonai Nemzetbiztonsági Szolgálat (KFH)</i></p>
IE	<p>(Garda Síochána National Surveillance Unit (NSU) – belonging to the police)</p>			<p>Directorate of Intelligence (G2)</p>
IT	<p>Information and Internal Security Agency/ <i>Agenzia informazioni e sicurezza interna (AISI)</i></p>	<p>Information and External Security Agency/ <i>Agenzia informazioni e sicurezza esterna (AISE)</i></p>		<p>Department information and security/ <i>Reparto informazioni e sicurezza (RIS)</i></p>
LT			<p>State Security Department/ <i>Valstybės Saugumo Departamentas (VSD)</i></p>	<p>Second Investigation Department under the Ministry of National Defence <i>Antrasis operatyvinių tarnybų departamentas prie Krašto apsaugos ministerijos (AOTD prie KAM)</i></p>
LU			<p>State Intelligence Service/ <i>Service de renseignement de l'état (SREL)</i></p>	

LV	Security Police/ <i>Drošības policija</i>	Constitutional Protection Bureau/ <i>Satversmes aizsardzības birojs (SAB)</i>		Military Intelligence and Security Service/ <i>Militārās izlūkošanas un drošības dienests (MISS)</i>
MT			Security Service	
NL			General Intelligence and Security Service/ <i>Algemene Inlichtingen- en Veiligheidsdienst (AIVD)</i>	Military Intelligence and Security Service/ <i>Militaire Inlichtingen- en Veiligheidsdienst (MIVD)</i>
PL	Internal Security Agency/ <i>Agencja Bezpieczeństwa Wewnętrznego (ABW)</i> Central Anti-Corruption Bureau/ <i>Centralne Biuro Antykorupcyjne (CBA)</i>	Foreign Intelligence Agency/ <i>Agencja Wywiadu (AW)</i>		Military Counter-intelligence Service/ <i>Slużba Kontrwywiadu Wojskowego (SKW)</i> Military Intelligence Service/ <i>Slużba Wywiadu Wojskowego (SWW)</i>
PT			Service of Security Intelligence/ <i>Serviço de Informações de Segurança (SIS)</i>	Service of Strategic Intelligence and Defense/ <i>Serviço de Informações Estratégicas e de Defesa (SIED)</i>

RO	Romanian Intelligence Service/ <i>Serviciul Roman de Informatii</i> (SRI) Department for Information and Internal Protection/ <i>Departamentul de</i>	External Intelligence Service/ <i>Serviciul de Informatii Externe</i> (SIE)		Defense General Directorate for Information/ <i>Direcția Generală de Informații a Apărării</i> (DGIA)
SE	Security Service/ <i>Säkerhetspolisen</i> , (SÄPO)		Defence Radio Establishment/ <i>Försvar ets Radio Anstalt</i> (FRA)	Military Intelligence Agency/ <i>Militära underrättelsetjänsten</i> (MUST)
SI			Slovene Intelligence and Security Agency/ <i>Slovenska obveščevalno-varnostna agencija</i> (SOVA)	Intelligence and Security Service of the Ministry of Defence/ <i>Obveščevalno-varnostna služba Ministrstva Republike Slovenije za obrambo</i> (OVS MORS)
SK	National Security Authority/ <i>Národný bezpečnostný úrad</i> (NBÚ)		Slovak Information Service/ <i>Slovenská informačná služba</i> (SIS)	Military Intelligence/ <i>Vojenské spravodajstvo</i> (VS)
UK	British Security Service (BSS) or MI5	Secret Intelligence Service (SIS) or MI6 Government Communications Headquarters (GCHQ)		Defence Intelligence (DI)

8.2.2 Figure 1: A conceptual model of signals intelligence

FRANET contractor are requested to provide a reference to any alternative figure to Figure 1 below (p. 16 of the FRA Report) available in your Member State describing the way signals intelligence is collected and processed.



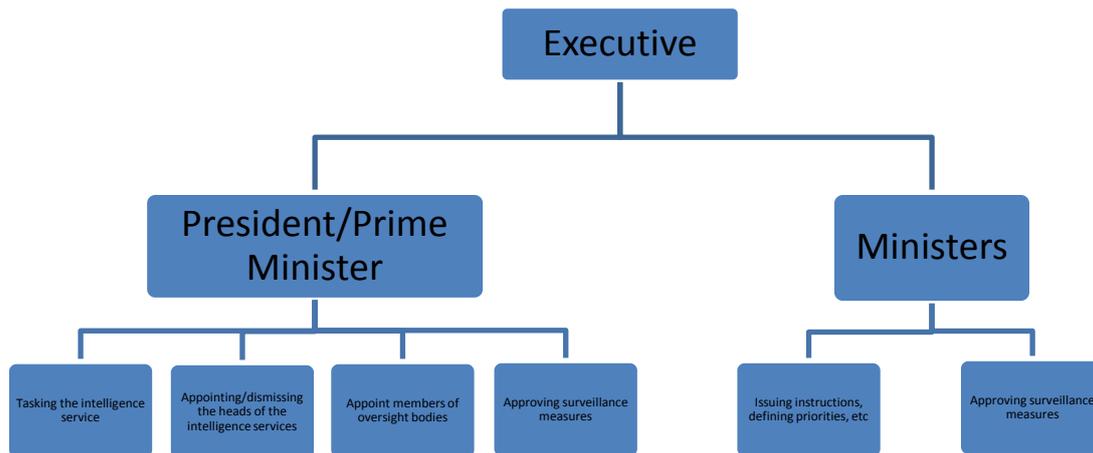
8.2.3 Figure 2: Intelligence services' accountability mechanisms

FRANET contractors are requested to confirm that Figure 2 below (p. 31 of the FRA 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.



8.2.4 Figure 3: Forms of control over the intelligence services by the executive across the EU-28

FRANET contractors are required to confirm that Figure 3 below (p. 33 of the FRA Report) properly captures the executive control over the intelligence services in your Member State. If it is not the case, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.



8.2.5 Table 1: Categories of powers exercised by the parliamentary committees as established by law

FRANET contractors are requested to check the accuracy of Table 1 below (p. 36 of the FRA Report). Please confirm that the parliamentary committee in your Member State was properly categorised by enumerating the powers it has as listed on p. 35 of the FRA Report. Please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

Member States	Essential powers	Enhanced powers
AT	X	
BE	X	
BG	X	
CY	X	
CZ	X	
DE		X
DK	X	
EE	X	
EL	X	
ES	X	
FI		
FR	X	
HR	X	
HU		X
IE		
IT	X	
LT	X	

LU		X
LV	X	
MT		
NL	X	
PL	X	
PT		
RO		X
SE	X	
SI	X	
SK	X	
UK	X	

Note: Finland, Ireland, Malta and Portugal do not have parliamentary committees that deal with intelligence services.

8.2.6 Table 2: Expert bodies in charge of overseeing surveillance, EU-28

FRANET contractors are requested to check the accuracy of Table 2 below (p. 42 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

EU Member State	Expert Bodies
AT	Legal Protection Commissioner (<i>Rechtsschutzbeauftragter</i>)
BE	Standing Intelligence Agencies Review Committee (<i>Vast Comité van Toezicht op de inlichtingen - en veiligheidsdiensten / Comité permanent de Contrôle des services de renseignement et de sécurité</i>) Administrative Commission (<i>Bestuurlijke Commissie/Commission Administrative</i>)
BG	National Bureau for Control over Special Intelligence Means (<i>Национално бюро за контрол на специалните разузнавателни средства</i>)
CY	N.A.
CZ	N.A.
DE	G 10 Commission (<i>G 10-Kommission</i>)
DK	The Oversight Committee of the Intelligence Services (<i>Tilsynet med Efterretningstjenesterne</i>)
EE	N.A.
EL	Hellenic Authority for Communication Security and Privacy (<i>Αρχή Διασφάλισης του Απορρήτου των Επικοινωνιών</i>)

ES	N.A.
FI	N.A.
FR	National Commission for Control of Intelligence Techniques (<i>Commission nationale de contrôle des techniques de renseignement</i>)
HR	The Office of the Council for National Security (<i>Ured Vijeća za nacionalnu sigurnost</i>) Council for Civic Oversight of Security and Intelligence Services (<i>Vijeće za građanski nadzor sigurnosno-obavještajnih agencija</i>)
HU	N.A.
IE	Complaints Referee Designated Judge of the High Court
IT	N.A.
LT	N.A.
LU	Supervisory committee (<i>autorité de contrôle</i>) of Act of 2 August 2002 Commission (<i>commission</i>) of the Criminal Investigation Code (<i>Code d'Instruction Criminelle</i>)
LV	N.A.
MT	Commissioner of the Security Service (<i>Kummissarju tas-Servizz ta' Sigurtà</i>)
NL	The Review Committee on the Intelligence and Security Services (<i>Commissie van Toezicht op de Inlichtingen- en Veiligheidsdiensten</i>)
PL	N.A.
PT	Council for the Oversight of the Intelligence System of the Portuguese Republic (<i>Conselho de Fiscalização do Sistema de Informações da República Portuguesa</i>)
RO	N.A.
SE	State Defence Intelligence Commission (<i>Statens inspektion för försvarsunderrättelseverksamheten</i>) Commission on Security and Integrity Protection (<i>Säkerhets- och integritetsskyddsnämnden</i>) Foreign Intelligence Court (<i>Försvarsunderrättelsedomstolen</i>)
SI	N.A.
SK	N.A.
UK	Intelligence Services Commissioner

8.2.7 Table 3: DPAs' powers over national intelligence services, EU-28

FRANET contractors are requested to check the accuracy of Table 3 below (p. 49 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

EU Member State	No powers	Same powers (as over other data controllers)	Limited powers
AT		X	
BE			X
BG		X	
CY			X
CZ	X		
DE			X
DK	X		
EE	X		
EL			X
ES	X		
FI		X	
FR			X
HR		X	
HU		X	
IE			X
IT			X
LT			X
LU	X		
LV	X		
MT	X		
NL	X		
PL			X
PT	X		
RO	X		
SE		X	
SI		X	
SK	X		
UK	X		
TOTAL	12	7	9

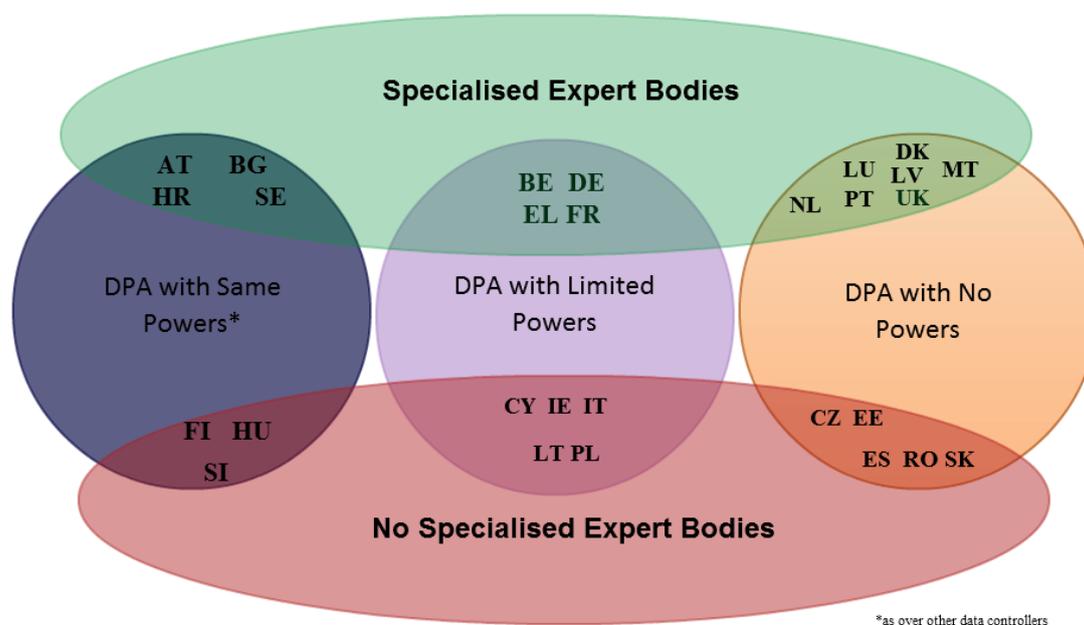
Notes: No powers: refers to DPAs that have no competence to supervise NIS.

Same powers: refers to DPAs that have the exact same powers over NIS as over any other data controller.

Limited powers: refers to a reduced set of powers (usually comprising investigatory, advisory, intervention and sanctioning powers) or to additional formal requirements for exercising them.

8.2.8 Figure 4: Specialised expert bodies and DPAs across the EU-28

FRANET contractors are required to check the accuracy of Figure 4 below (p. 50 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.



8.2.9 Table 4: Prior approval of targeted surveillance measures, EU-28

FRANET contractors are required to check the accuracy of Table 4 below (p. 52 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

EU Member State	Judicial	Parliamentary	Executive	Expert bodies	None
AT				X	
BE				X	
BG	X				
CY	X				
CZ	X				
DE				X	
DK	X				
EE	X				
EL	X				
ES	X				
FI	X				
FR			X		

EU Member State	Judicial	Parliamentary	Executive	Expert bodies	None
HR	X				
HU	X		X		X
IE			X		
IT	X				
LT	X				
LU			X		
LV	X				
MT			X		
NL			X		
PL	X				
PT ⁶					
RO	X				
SE ⁷					
SI	X				X
SK	X				
UK			X		

8.2.10 Table 5: Approval of signals intelligence in France, Germany, the Netherlands, Sweden and the United Kingdom

FRANET contractors are requested to check the accuracy of Table 5 below (p. 55 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

EU Member State	Judicial	Parliamentary	Executive	Expert
FR			X	
DE		X (telco relations)		X (selectors)
NL			X (selectors)	
SE				X
UK			X	

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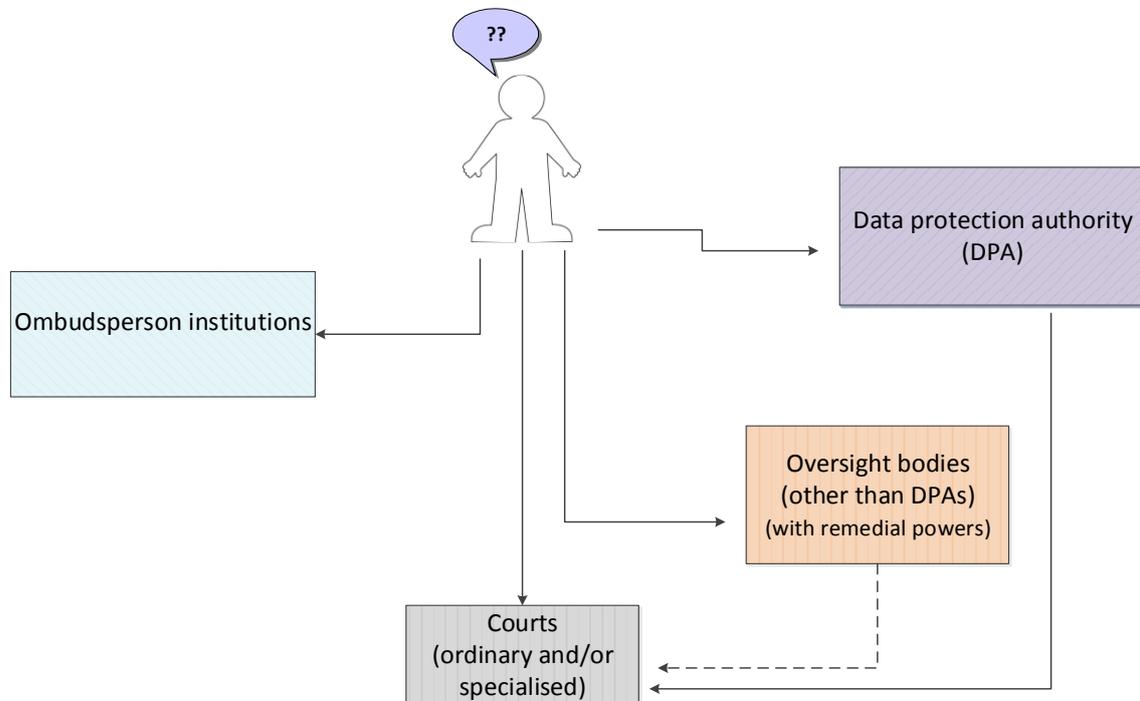
⁶ The Portuguese intelligence service is prohibited from undertaking surveillance; the Constitution only allows public authorities to interfere with correspondence, telecommunications or other means of communication in criminal proceedings, which the intelligence service is not allowed to conduct.

⁷ Sweden's security and intelligence services do not carry out targeted surveillance. The security service processes and analyses data collected by law enforcement through secret wiretapping and intercepted traffic data, while the signals intelligence agency gathers signals intelligence.

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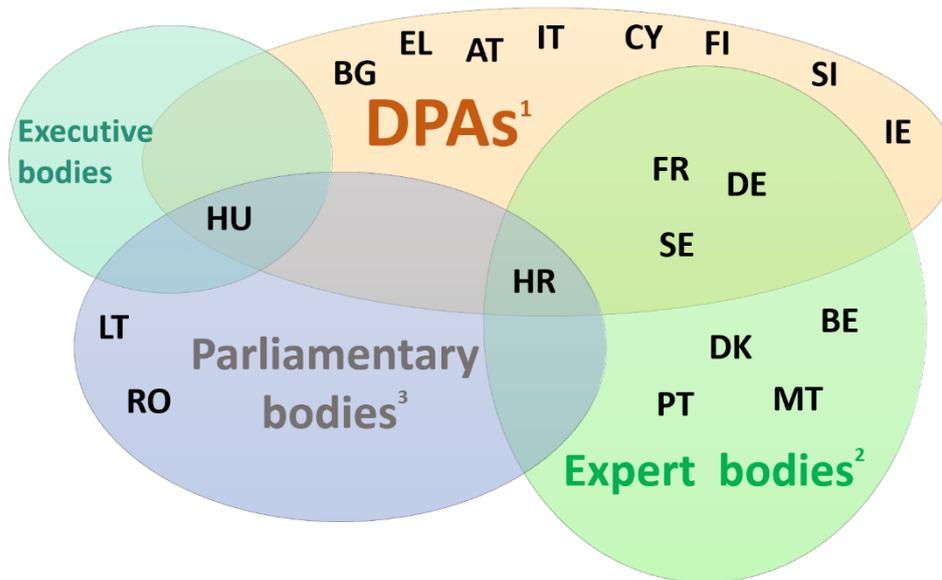
8.2.11 Figure 5: Remedial avenues at the national level

FRANET contractors are requested to confirm that Figure 5 below (p. 60 of the FRA 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.



8.2.12 Figure 6: Types of national oversight bodies with powers to hear individual complaints in the context of surveillance, by EU Member States

FRANET contractors are requested to check the accuracy of Figure 6 (p. 73 of the FRA Report) below. In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.



Notes: 1. The following should be noted regarding national data protection authorities: In Germany, the DPA may issue binding decisions only in cases that do not fall within the competence of the G 10 Commission. As for 'open-sky data', its competence in general, including its remedial power, is the subject of on-going discussions, including those of the NSA Committee of Inquiry of the German Federal Parliament

2. The following should be noted regarding national expert oversight bodies: In Croatia and Portugal, the expert bodies have the power to review individual complaints, but do not issue binding decisions. In France, the National Commission of Control of the Intelligence Techniques (CNCTR) also only adopts non-binding opinions. However, the CNCTR can bring the case to the Council of State upon a refusal to follow its opinion. In Belgium, there are two expert bodies, but only Standing Committee I can review individual complaints and issue non-binding decisions. In Malta, the Commissioner for the Security Services is appointed by, and accountable only to, the prime minister. Its decisions cannot be appealed. In Sweden, seven members of the Swedish Defence Intelligence Commission are appointed by the government, and its chair and vice chair must be or have been judges. The remaining members are nominated by parliament.

3. The following should be noted regarding national parliamentary oversight bodies: only the decisions of the parliamentary body in Romania are of a binding nature.