

# Short Thematic Report

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

Legal update

Country: ITALY

Version of 29 June 2016

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# 1 Description of tasks – Phase 3 legal update

## 1.1 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.

No major developments have been introduced in the report period in relation to surveillance by intelligence services in Italy. Nonetheless, some policy updates are to be reported.

First of all, Decree Law No. 7 of 18 February 2015, on “Compelling measures to curb terrorism” (*Misure urgenti per il contrastare o del terrorismo, anche di matrice internazionale, nonche' proroga delle missioni internazionali delle Forze armate e di polizia, iniziative di cooperazione allo sviluppo e sostegno ai processi di ricostruzione e partecipazione alle iniziative delle Organizzazioni internazionali per il consolidamento dei processi di pace e di stabilizzazione*)<sup>1</sup> was brought in and subsequently converted into law with amendments with Law No. 43 of 17 April 2015<sup>2</sup>. This legislative innovation, designed to curb international terrorism, increased the judicial and operative instruments available to police and intelligence services. It extended the functional guarantees already envisaged by art. 17 of the Law No. 124 of 3 August 2007 for intelligence service professionals and introduced the possibility for intelligence agencies to ask local police commissioners to issue residence permits to immigrants involved in investigations in order to facilitate informative infiltration. It also implemented information-sharing between intelligence services and the Bank of Italy to address money-laundering and terrorism more effectively, financing monitoring activities and introduced a temporary measure (up to 31 January 2016) permitting intelligence professionals to conduct interrogations of criminal prisoners involved in terrorism investigations. Moreover, it extended from 5 to 10 days the period within which to provide communication of wiretapping documents to the judicial authorities, leaving enough time to translate conversations from foreign languages into Italian; eventually, it introduced measures to protect the identity of intelligence professionals when they are required to testify in Courts.<sup>3</sup> As for the interrogations conducted in prisons by

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<sup>1</sup>Italy, Decree Law No. 7 of 18 February 2015, on “Compelling measures to curb terrorism” (*Misure urgenti per il contrastare o del terrorismo, anche di matrice internazionale, nonche' proroga delle missioni internazionali delle Forze armate e di polizia, iniziative di cooperazione allo sviluppo e sostegno ai processi di ricostruzione e partecipazione alle iniziative delle Organizzazioni internazionali per il consolidamento dei processi di pace e di stabilizzazione*), brought in and subsequently converted into law with amendments with Law No. 43 of 17 April 2015, available at: [www.gazzettaufficiale.it/eli/id/2015/02/19/15G00019/sg](http://www.gazzettaufficiale.it/eli/id/2015/02/19/15G00019/sg). All hyperlinks were accessed on 28 June 2016.

<sup>2</sup> Italy, Law No. 43 of 17 April 2015 which converted into law with amendments Decree Law No. 7 of 18 February 2015, available at: [www.gazzettaufficiale.it/eli/id/2015/04/20/15G00060/sg](http://www.gazzettaufficiale.it/eli/id/2015/04/20/15G00060/sg).

<sup>3</sup> The analysis of the above-mentioned Law Decree is contained in Italy, Italian Government Information System for the Security of the Italian Republic (*Presidenza del Consiglio dei Ministri. Sistema di informazione per la sicurezza della Repubblica*) (2015), *Relazione sulla politica dell'informazione per la sicurezza*, available at: [www.sicurezzanazionale.gov.it/sisr.nsf/wp-](http://www.sicurezzanazionale.gov.it/sisr.nsf/wp-)

intelligence professionals, the Parliamentary Committee for the Security of the Italian Republic (COPASIR) has clarified that both the General Prosecutor by the Rome Court of Appeals and the National Prosecutor in charge of mafia and terroristic affairs have to be informed in advance. The COPASIR is also to be informed once the activity is carried out, according to the procedure envisaged by art. 33(4) of the Law No. 124 of 3 August 2007.<sup>4</sup>

Law Decree No. 174 of 30 October 2015<sup>5</sup> (converted with amendments into Law No. 198 of 11 December 2015), concerning the extension of international missions of army and police forces (*Proroga delle missioni internazionali delle Forze armate e di polizia, iniziative di cooperazione allo sviluppo e sostegno ai processi di ricostruzione e partecipazione alle iniziative delle organizzazioni internazionali per il consolidamento dei processi di pace e di stabilizzazione*) has been approved. This Decree introduced the possibility for the Presidency of the Council of Ministers to adopt intelligence measures to coordinate special defence forces when addressing crisis and emergency situations relevant to State security or for the protection of Italian citizens abroad. COPASIR is to be informed of the adoption of the above mentioned intelligence measures.<sup>6</sup>

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[content/uploads/2016/03/Relazione-2015.pdf](#) (p.13). This report, published according to art. 38 of the Law No. 124 of 3 August 2007 (which establishes the duty for the Government to transmit by the end of February of each year a report to the Parliament concerning the activities of the intelligence services in the previous year), concerns the mission of the surveillance services and the main issues they coped with in 2015. The introduction to the report encompasses the description of the role and mission of intelligence services, in compliance with Italian legislation. The following chapters concern the main challenges intelligence services had to face in 2015. More specifically, the first chapter regards the jihadist terrorism and the measures developed in Italy, Europe and in the western countries to contrast it. The second chapter concerns migrations analysed from the point of view of the security issues they entail, for instance the human trafficking routes and dynamics and the increase of potential terrorists among newly arrived immigrants and asylum-seekers. The third chapter is dedicated to the main issues concerning the security of Italy abroad and within its borders. The fourth chapter deals with the internal social protest movements and their potential role of subversion of the democratic order. The last chapter concerns an overview of the challenges faced by and of the new trends developed by intelligence services during 2015.

<sup>4</sup> Clarifications provided by Italy, Parliamentary Committee for the Security of the Republic (*Comitato parlamentare per la sicurezza della Repubblica*, COPASIR) (2015), *Relazione annuale (Attività svolta dal 1 ottobre 2014 al 31 dicembre 2015)*, Doc. XXXIV No.3, Senate of the Republic (*Senato della Repubblica*), Chamber of Deputies (*Camera dei Deputati*), 17 February 2016, available

at:

[www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione\\_sicurezza\\_repubblica\\_XVII\\_Leg/RELAZIONE\\_ANNUALE\\_2015.pdf](http://www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione_sicurezza_repubblica_XVII_Leg/RELAZIONE_ANNUALE_2015.pdf). The annual COPASIR report summarizes the activity of the Parliamentary Committee concerning surveillance issues and challenges. It is of absolute relevance because it provides an overview of the policy and legislative developments concerning surveillance and intelligence services activities. Specifically, the 2015 report encompasses 2015 legislative developments concerning surveillance issues. The third chapter reports the variations of the COPASIR's composition and the entry of new members. The fourth chapter, describes the monitoring and control activities of the COPASIR on the Government's activities as for surveillance: this chapter includes the documents acquired by the Parliament; the auditioning organised during the report year; investigations conducted on specific issues. The last chapter, reports the COPASIR suggestions on how Law No. 124 of 3 August 2007 could be reformed.

<sup>5</sup> Italy, Law Decree No. 174 of 30 October 2015 (converted with amendments into Law No. 198 of 11 December 2015), concerning the extension of international missions of army and police forces (*Proroga delle missioni internazionali delle Forze armate e di polizia, iniziative di cooperazione allo sviluppo e sostegno ai processi di ricostruzione e partecipazione alle iniziative delle organizzazioni internazionali per il consolidamento dei processi di pace e di stabilizzazione*), available at: [www.diritto.it/docs/610877-decreto-legge-30-ottobre-2015-n-174-proroga-delle-missioni-internazionali-delle-forze-armate-e-di-polizia-iniziativa-di-cooperazione-allo-sviluppo-e-sostegno-ai-processi-di-r?tipo=content](http://www.diritto.it/docs/610877-decreto-legge-30-ottobre-2015-n-174-proroga-delle-missioni-internazionali-delle-forze-armate-e-di-polizia-iniziativa-di-cooperazione-allo-sviluppo-e-sostegno-ai-processi-di-r?tipo=content).

<sup>6</sup> The analysis of the Law Decree No. 174 of 30 October 2015 is available in Italy, Parliamentary Committee for the Security of the Republic (*Comitato parlamentare per la sicurezza della Repubblica*, COPASIR) (2015), *Relazione annuale (Attività svolta dal 1 ottobre 2014 al 31 dicembre 2015)*,

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Art. 1(965) of the Law No. 208 of 28 December 2015 (Stability Law 2016)<sup>7</sup> provides for creation by the Ministry of Economy and Finance of a specific Fund for the enhancement of interventions and instrumental equipment for national cyber-security (150 mil. EUR for 2016). This fund is distributed with the approval of the Inter-Ministerial Committee for the Security of the Republic (CISR).

Two Decrees of the President of the Italian Government were approved in 2015. The first one (No. 4 of 6 November 2015) regulates the use of digital signatures for classified documents,<sup>8</sup> while the second (No. 5 of 6 November 2015) concerns administrative protection of State secrets, classified information and reserved information.<sup>9</sup>

COPASIR has proposed some suggestions to reform Law No. 124 of 3 August 2007 for the purpose of the reinforcement of intelligence activities imposed by the recent international challenges to State security.<sup>10</sup> The first suggestion concerns the possibility for COPASIR to have direct access to the databases of information and security services, without filters or intermediations. Secondly, the COPASIR suggests providing full documentary evidence on each of the activities implemented by the intelligence services through a “news sheet” where the start, the implementation and the conclusion of the activity is reported to the COPASIR. Moreover, the COPASIR has requested its advisory authority to adopt a more incisive approach: the authority that the COPASIR advises should provide adequate information and documentation if it does not wish to comply with COPASIR advice. As a future eventuality, COPASIR has proposed extending its activities auditing the intelligence agencies’ budgets and its power to designate the agencies’ directors.

A legislative proposal was presented to the Parliament on 2 December 2015 concerning revision of art. 266-*bis* of the Italian Criminal Procedure Code on wiretapping and cyber and telematic information.<sup>11</sup> The proposal, in view of the new surge in the terrorist threat, aims at providing police officers with the possibility of using programs for remote control of cyberdata to prevent and counter-terrorist activities. Parliamentary procedure on the proposal - which had already been introduced with Law Decree No. 7 of 18 February 2015 and then removed - , has not started yet, but it has been severely criticized since it risks introducing a controversial practice

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Doc. XXXIV No.3, Senate of the Republic (*Senato della Repubblica*), Chamber of Deputies (*Camera dei Deputati*), 17 February 2016,  
available

at:

[www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione\\_sicurezza\\_repubblica\\_XVII\\_Leg/RELAZIONE\\_ANNUALE\\_2015.pdf](http://www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione_sicurezza_repubblica_XVII_Leg/RELAZIONE_ANNUALE_2015.pdf)

<sup>7</sup> Italy, Art. 1(965) of the Law No. 208 of 28 December 2015 (Stability Law 2016), available at: [www.gazzettaufficiale.it/eli/id/2015/12/30/15G00222/sg](http://www.gazzettaufficiale.it/eli/id/2015/12/30/15G00222/sg).

<sup>8</sup> Italy, Decree of the President of the Italian Government, No. 4 of 6 November 2015, available at: [www.gazzettaufficiale.it/eli/id/2015/12/05/15A08534/sg](http://www.gazzettaufficiale.it/eli/id/2015/12/05/15A08534/sg).

<sup>9</sup> Italy, Decree of the President of the Italian Government, No. 5 of 6 November 2015, available at: [www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2015-12-05&atto.codiceRedazionale=15A08535](http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2015-12-05&atto.codiceRedazionale=15A08535).

<sup>10</sup> Suggestions can be found in Italy, Parliamentary Committee for the Security of the Republic (*Comitato parlamentare per la sicurezza della Repubblica*, COPASIR) (2015), *Relazione annuale (Attività svolta dal 1 ottobre 2014 al 31 dicembre 2015)*, Doc. XXXIV No.3, Senate of the Republic (*Senato della Repubblica*), Chamber of Deputies (*Camera dei Deputati*), 17 February 2016,  
available at:

[www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione\\_sicurezza\\_repubblica\\_XVII\\_Leg/RELAZIONE\\_ANNUALE\\_2015.pdf](http://www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione_sicurezza_repubblica_XVII_Leg/RELAZIONE_ANNUALE_2015.pdf).

<sup>11</sup> Legislative proposal presented to the Parliament on 2 December 2015 concerning revision of art. 266-*bis* of the Italian Criminal Procedure Code on wiretapping and cyber and telematic information is available at: [www.camera.it/dati/leg17/lavori/stampati/pdf/17PDL0037810.pdf](http://www.camera.it/dati/leg17/lavori/stampati/pdf/17PDL0037810.pdf).

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of data control which has also been questioned by the Data Protection Authority.<sup>12</sup> In fact, the proposal seeks to legitimate the use of the so-called “Trojan programs” which can be fed into PCs without the users being aware of the procedure: these programs can appropriate e-mails, chats, conversations and information even via Skype. They are able to bypass every kind of firewall and protection system and can even alter the content of such information: for these reasons they cannot be subject to the traditional control and monitoring systems.<sup>13</sup>

Indeed, a question raised in Parliament on 23 February 2016 addressed to the Italian Government concerned the possibility that the NSA might have wiretapped the former Italian Prime Minister, whose conversations were disclosed during the Snowden affair.<sup>14</sup> The Italian Minister for Constitutional Reforms and Relations with Parliament answered the question orally on 24 February 2016, confirming that, according to the information provided by the intelligence services, there have been no violations of the privacy of Italian citizens or of members of the Italian institutions. Moreover, the Italian Government convened the USA Ambassador in Italy to request further information.<sup>15</sup> The Data Protection Authority has made some declarations on this issue, stating that the real problem is the mass surveillance implemented by the NSA, which could have compromised the Italian citizens’ fundamental right to data protection.<sup>16</sup>

## 1.2 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.<sup>17</sup>*

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

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<sup>12</sup> La Repubblica (2015), “Antonello Soro: “Mail, cellulari e tablet, rischio Hacking team, può spiarcì sempre””, 15 July 2015, available at: [www.repubblica.it/politica/2015/07/15/news/antonello\\_soro\\_mail\\_cellulari\\_e\\_tablet\\_rischio\\_hacking\\_team\\_puo\\_spiarci\\_sempre\\_-119124990/](http://www.repubblica.it/politica/2015/07/15/news/antonello_soro_mail_cellulari_e_tablet_rischio_hacking_team_puo_spiarci_sempre_-119124990/).

<sup>13</sup> L’Espresso (2016), “Riecco il trojan di Stato: sulla cybersicurezza una partita di potere”, 26 January 2016, available at: <http://espresso.repubblica.it/palazzo/2016/01/26/news/riecco-il-trojan-di-stato-sulla-cybersicurezza-una-partita-di-potere-1.247718>.

<sup>14</sup> The text of the question raised by the Italian Parliament on 23 February 2016 and addressed to the Italian Government, is available at:

<http://aic.camera.it/aic/scheda.html?core=aic&numero=3/02042&ramo=CAMERA&leg=17&testo=Snowden>.

<sup>15</sup> The Government’s answer to the question raised by the Italian Parliament on 23 February 2016, is available at:

[www.camera.it/leg17/410?idSeduta=0576&tipo=stenografico#sed0576.stenografico.tit00040.sub00010](http://www.camera.it/leg17/410?idSeduta=0576&tipo=stenografico#sed0576.stenografico.tit00040.sub00010) (p. 59).

<sup>16</sup> Italy, Data Protection Authority (Garante per la Protezione dei Dati Personali) (2016), “Inevitabile un intervento, il problema è la raccolta dati, nessuno sa chi e come li usa”, Press Release, 25 February 2016, available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/4727791](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/4727791).

<sup>17</sup> [www.dcaf.ch/Publications/Making-International-Intelligence-Cooperation-Accountable](http://www.dcaf.ch/Publications/Making-International-Intelligence-Cooperation-Accountable)

There are not specific legislative dispositions regulating international cooperation in the surveillance field. Nonetheless, Law No. 124 of 3 August 2007, regulating the activities of intelligence services, implicitly envisages it: art. 4.3(a) states that the Department for Security Information (DIS – *Dipartimento delle informazioni per la sicurezza*) is responsible for the coordination of the AISE (Information and External Security Agency – *Agenzia informazioni e sicurezza esterna*) and AISI (Information and Internal Security Agency – *Agenzia informazioni e sicurezza interna*) activities and for monitoring the results of such activities, although the two agencies are in charge of managing data collection activities and cooperation with the intelligence services of other States.

Moreover, the COPASIR is responsible for monitoring the activities of the above-mentioned intelligence agencies, which can be required to report before the COPASIR (art. 30 – 38 of the Law No. 124 of 3 August 2007). The COPASIR is a parliamentary organism so there are no obligations for it to inform the Parliament. The Government, however, has to deliver an annual report to the Parliament concerning the activities of intelligence services (art. 38 of the Law No. 124 of 3 August 2007). The COPASIR has a monitoring role on the intelligence services' activities and can ask to intelligence agencies and any other person owning relevant information to be auditioned in front of the COPASIR (art. 31 of the Law No. 124 of 3 August 2007). The annual COPASIR report includes all the auditions performed by the COPASIR during the year. The 2015 COPASIR annual report did not include information concerning international cooperation of Italian intelligence services: the references to international cooperation concern the bilateral summits between COPASIR and similar organisms based in other countries and the external activities and missions of the COPASIR's president.

As for the possibility to classify information on services' cooperation, art. 39 of Law No. 124 of 3 August 2007 envisages the possibility to classify any document, information, activity whose dissemination might damage Republic security, even considering international agreements Italy takes part to and international relationships with other States.

Moreover, Italy, as a member of the EU, UN and NATO, has been active in the main units for intelligence cooperation with the aim of curbing terroristic activities since 2001. These activities are described in sufficient detail by the Minister of Foreign Affairs in official documents.<sup>18</sup> As for the UN system, Italy provides full support to the CTC (Counter Terrorism Committee) and has ratified 12 of the 13 International Conventions constituting the UN legal framework for counterterrorism and the International Convention for the suppression of acts of nuclear terrorism<sup>19</sup>. As for the EU, Italy actively contributes to implementation of the EU Action Plan against terrorism adopted by the European Commission on 28 September 2001, of the European Strategy against Terrorism adopted in December 2005 and of the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism of 2005<sup>20</sup>. The role of the intelligence services is not clearly outlined; nonetheless, they are supposed to cooperate with other EU member States services to contrast terrorism at EU level and implement preventive measures to identify potential terrorists.

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<sup>18</sup> Italy, Ministry of Foreign Affairs (*Ministero degli Affari Esteri e della Cooperazione Internazionale*), “*Lotta al terrorismo*”, Information sheet concerning Italian strategy to contrast terrorism, available at: [www.esteri.it/mae/it/politica\\_estera/temi\\_globali/lotta\\_terrorismo](http://www.esteri.it/mae/it/politica_estera/temi_globali/lotta_terrorismo).

<sup>19</sup> Italy, Ministry of Foreign Affairs (*Ministero degli Affari Esteri e della Cooperazione Internazionale*), “*Lotta al terrorismo*”, Information sheet concerning Italian strategy to contrast terrorism, available at: [www.esteri.it/mae/it/politica\\_estera/temi\\_globali/lotta\\_terrorismo](http://www.esteri.it/mae/it/politica_estera/temi_globali/lotta_terrorismo).

<sup>20</sup> Italy, Ministry of Foreign Affairs (*Ministero degli Affari Esteri e della Cooperazione Internazionale*), “*Lotta al terrorismo*”, Information sheet concerning Italian strategy to contrast terrorism, available at: [www.esteri.it/mae/it/politica\\_estera/temi\\_globali/lotta\\_terrorismo](http://www.esteri.it/mae/it/politica_estera/temi_globali/lotta_terrorismo).

### 1.3 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)<sup>21</sup> (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?*

Italian legislation does not provide any legislative tool enabling direct access to the information gathered by intelligence services. In fact, Italian legislation does not envisage specific legislation concerning the right to have access to information possessed by intelligence service. The Data Protection Act (Law No. 196 of 30 June 2003), which rules the role of the DPA, includes some dispositions concerning the balance between the right to data protection and the security of the State (art. 58). Nonetheless, the Data Protection Authority is the institution responsible for the correct use of personal data by the intelligence, while the COPASIR is in charge of political control of the conduct and activity of the intelligence services. Moreover, the Court of Appeal is in charge of jurisdictional control of the data collected, as described in section 1.1.

<sup>21</sup> [www.right2info.org/exceptions-to-access/national-security/global-principles#section-10](http://www.right2info.org/exceptions-to-access/national-security/global-principles#section-10)

## 1.4 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](#).

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 questions.

### Introduction

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.

As for the introduction, Italy is mentioned in footnote 11 where the inquiries implemented by the COPASIR following the Snowden case are mentioned. This reference is accurate and correct.

### 1 Intelligence services and surveillance laws

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.

Update of chapter 1 is reported in the specific sections (1.1, 1.2, 1.3).

### 1.1 Intelligence services

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.

As for section 1.1, the Italian DIS is mentioned as a body whose function is to coordinate the activity of intelligence services agencies. This description is correct, as stressed out by Italian legislation (Law No. 124 of 3 August 2007) and by the intelligence services website.<sup>22</sup> Moreover, Italy is mentioned as one of the member States where civil intelligence services are entrusted to two different agencies, one in charge of internal affairs – in the Italian case, the AISI – and one in charge of foreign affairs – in the Italian case, the AISE. This seems a correct description of competences' distribution.

### 1.2 Surveillance measures

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<sup>22</sup> Italy, Italian Government Information System for the Security of the Italian Republic (*Presidenza del Consiglio dei Ministri. Sistema di informazione per la sicurezza della Repubblica*), "DIS", Information sheet concerning the activity of the Italian Department for Security Information (*Dipartimento delle Informazioni per la sicurezza – DIS*), available at: [www.sicurezzanazionale.gov.it/sisr.nsf/chi-siamo/organizzazione/dis.html](http://www.sicurezzanazionale.gov.it/sisr.nsf/chi-siamo/organizzazione/dis.html).



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.*

As for section 1.2, Italy is mentioned as one of the member States performing SIGINT, according to the information provided by Brown, I. et al. (2015). The referred paper has been reviewed too and the information seems to be correct even though the paper states that AISE is in charge of performing SIGINT, whereas the intelligence services website confirms that this instrument can be used by the AISI too.<sup>23</sup> For this reason, FRA report should include the possibility for AISI to perform SIGINT.

### **1.3 Member States' laws on surveillance**

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.*

As for section 1.3, in Italy targeted surveillance can be directed to a single individual or to a group of individuals as stated in the report: the information has to be considered correct. Moreover, section 1.3 mentions that the functioning of AISE, specifically as for targeted and SIGINT surveillance, is not clearly defined by the Italian legislation (mainly art. 6 of Law No. 124 of 3 August 2007). This has to be considered correct even though a Decree of the President of the Italian Government has been approved in 2015 (Decree of the President of the Italian Government No. 2 of 19 May 2015) but it is not publicly available: this Decree, as confirmed by the COPASIR yearly report for 2015, is aimed at ruling the organization and functioning of AISE.<sup>24</sup> It is impossible though to figure out whether this Decree has contributed to a clearer discipline of the AISE activities. However, FRA report may include a reference to the above mentioned Decree of the President of the Italian Government.

### **FRA key findings**

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.*

This section reports FRA general findings in general terms. Italy is not mentioned and neither are the other Member States.

## **2 Oversight of intelligence services**

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<sup>23</sup> Italy, Italian Government Information System for the Security of the Italian Republic (*Presidenza del Consiglio dei Ministri. Sistema di informazione per la sicurezza della Repubblica*), "Intelligence", Information sheet concerning the activity of the Italian Intelligence Services, available at: [www.sicurezza nazionale.gov.it/sisr.nsf/cosa-facciamo/l-intelligence.html](http://www.sicurezza nazionale.gov.it/sisr.nsf/cosa-facciamo/l-intelligence.html).

<sup>24</sup> Italy, Parliamentary Committee for the Security of the Republic (*Comitato parlamentare per la sicurezza della Repubblica, COPASIR*) (2015), *Relazione annuale (Attività svolta dal 1 ottobre 2014 al 31 dicembre 2015)*, Doc. XXXIV No.3, Senate of the Republic (*Senato della Repubblica*), Chamber of Deputies (*Camera dei Deputati*), 17 February 2016, available at: [www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione\\_sicurezza\\_repubblica\\_XVII\\_Leg/RELAZIONE\\_ANNUALE\\_2015.pdf](http://www.parlamento.it/application/xmanager/projects/parlamento/file/Commissione_sicurezza_repubblica_XVII_Leg/RELAZIONE_ANNUALE_2015.pdf).

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.*

Italy is not mentioned in this section, but a specific reference does not seem necessary as the legislative discipline concerning the oversight of intelligence services is provided in the following sections.

### **2.1 Executive control**

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.*

As for section 2.1, the report mentions the CISR as the body responsible for the executive oversight activity. This is correct, nonetheless the Italian report of 13 October 2014 states that part of this supervision activities is performed by the DIS too (p. 22): maybe both bodies should be mentioned.

### **2.2 Parliamentary oversight**

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.*

Italy is not specifically mentioned in this section; nonetheless specific information on the COPASIR is provided in the following sections. No integration is necessary.

#### **2.2.1 Mandate**

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.*

Information provided on the mandate of COPASIR is correct. No integration is necessary.

#### **2.2.2 Composition**

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.*

Information provided on the composition of the COPASIR is correct. No integration is necessary.

#### **2.2.3 Access to information and documents**

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.*

Information provided in this section concerning the COPASIR is correct. No integration is necessary.

### **2.2.3 Reporting to parliament**

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.*

Italy is not mentioned in this section. Nonetheless, it might be worth stressing the the yearly COPASIR report on the activity of the Committee is published and easily accessible on the Internet, together with COPASIR reports concerning specific relevant issues.<sup>25</sup>

## **2.3 Expert oversight**

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.*

Italy is not mentioned but no additional information should be integrated into the report.

### **2.3.1 Specialised expert bodies**

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.*

Italy is not mentioned in this section as a specialised expert body is not envisaged by Italian legislation. This information might be included into the FRA report.

### **2.3.2 Data protection authorities**

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.*

Information provided in this section is correct.

<sup>25</sup> Italy, Parliamentary Committee for the Security of the Republic (*Comitato parlamentare per la sicurezza della Repubblica*, COPASIR), Reports collection, available at: [www.parlamento.it/Parlamento/961?shadow\\_organ=406517](http://www.parlamento.it/Parlamento/961?shadow_organ=406517).

Generally speaking, control and monitoring activities of the Data Protection Authority are based on various legislative provisions<sup>26</sup>; moreover, art. 26 of the Law No. 124 of 3 August 2007 ‘Information System for the Security of the Republic and new discipline for classification’ (*Legge No. 124 del 3 agosto 2007 ‘Sistema di informazione per la sicurezza della Repubblica e nuova disciplina del segreto’*) clearly states that the DIS, the AISE and the AISI are compelled to collect and process personal data and information for the sole purpose of pursuing their mission, as is stated in the legislation concerning the Information System for Security<sup>27</sup>. Data collection by intelligence services has to be performed in compliance with the principles established by the Data Protection Act (Law No. 196 of 30 June 2003): i.e. lawfulness, accuracy, pertinence, precision, updating, minimization of identification data, prohibition of profiling procedures, security, minimum measures adoption, right to compensation in case of irregular and illegal activities, and Data Protection Authority monitoring (art. 58 of the above mentioned law). If the data collection is performed by institutions, bodies or subjects other than the intelligence agencies but cooperating with them for security protection purposes, it is obligatory to inform them of any treatment of genetic, biometric, health or sexual data (art. 58.2). Nonetheless, ratification is still pending for the Decree of the President of the Italian Government regulating implementation of these measures, considering the very great variety of data collected, as envisaged by art. 58(4)<sup>28</sup>. The Data Protection Authority is in charge of inspection activities concerning data treatment and processing by the intelligence services: in this case, the Authority member in charge of this activity is the only one having direct access to the data concerned, subsequently reporting to the Authority’s meetings (art. 160). If the data concerned are protected by state secret privilege, the results of inspection activity will not be communicated to the subject who may have appealed to the Authority (art. 160.2): nonetheless, on the whole the state secret privilege is not considered an element impeding the controlling power of the Authority<sup>29</sup>.

This discipline has been reinforced by the Protocol signed by the Data Protection Authority and the DIS on 11 November 2013.<sup>30</sup> This Protocol established the obligation for the DIS to inform the Authority of the Plan of acknowledgement of IT databases to which the DIS and intelligence agencies have access and the data collected in compliance with art. 11 of the “Monti Decree”, described in the Italian report, should such collection lead to identification of the

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<sup>26</sup> First of all the Italy, Data Protection Act, Law No. 196 of 30 June 2003, (for instance, art. 26, 27, 32, 32-bis, 37, 39, 40, 44), available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248).

<sup>27</sup> Italy, Law No. 124 of 3 August 2007 ‘Information System for the Security of the Republic and new discipline for classification’ (*Legge No. 124 del 3 agosto 2007 ‘Sistema di informazione per la sicurezza della Repubblica e nuova disciplina del segreto’*) is), available at: [www.sicurezzanazionale.gov.it/sisr.nsf/documentazione/normativa-di-riferimento/legge-124-2007.html](http://www.sicurezzanazionale.gov.it/sisr.nsf/documentazione/normativa-di-riferimento/legge-124-2007.html).

<sup>28</sup> Italy, Data Protection Act, Law No. 196 of 30 June 2003, available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248).

<sup>29</sup> Italy, Data Protection Act, Law No. 196 of 30 June 2003, available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/1311248).

<sup>30</sup> This Protocol has not been made public. Nonetheless, it has been presented during a press release by the Data Protection Authority (Italy, Data Protection Authority (*Garante per la Protezione dei Dati Personali*) (2013), “*Firmato il protocollo d'intenti tra Dis e Garante privacy. Dichiarazione di Antonello Soro*”, Press Release, 11 November 2013, available at: [www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/2746204](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/2746204)), described in this document of the Authority ([www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/4263682](http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/export/4263682)) and reported in newspapers ([www.repubblica.it/politica/2013/11/11/news/privacy\\_pi\\_tutele\\_dal\\_governo\\_dopo\\_datagate-70761612/](http://www.repubblica.it/politica/2013/11/11/news/privacy_pi_tutele_dal_governo_dopo_datagate-70761612/)). This press release has been commented by La Repubblica (2013), “*Datagate, accordo tra i servizi segreti e il garante della privacy: "Più tutele per i cittadini"*”, 11 November 2013, available at: [www.repubblica.it/politica/2013/11/11/news/privacy\\_pi\\_tutele\\_dal\\_governo\\_dopo\\_datagate-70761612/](http://www.repubblica.it/politica/2013/11/11/news/privacy_pi_tutele_dal_governo_dopo_datagate-70761612/).

subject. This information procedure seems to reinforce the monitoring activity of the Authority and, unlike the monitoring conducted in accordance with art. 160 of the Data Protection Act, it does not depend upon request by the subjects concerned.

#### **2.4 Approval and review of surveillance measures**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section. However, it can be stated that judicial authorities are in charge of approving and reviewing surveillance measures as stated in Table 4. For this reason, a reference to the Italian system could be integrated in the report.

#### **FRA key findings**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

This section reports FRA general findings in general terms. Italy is not mentioned and neither are the other member States.

### **3 Remedies**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

In this section, a general overview of the remedies discipline relevance is provided. Italy is not mentioned but no additional information should be integrated into the report.

#### **3.1 A precondition: obligation to inform and the right to access**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Information provided is correct.

#### **3.2 Judicial remedies**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section, but a specific reference does not seem necessary as the discipline concerning judicial remedies is provided in the following sections.

### **3.2.1 Lack of specialisation and procedural obstacles**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section; nonetheless, judicial lack of expertise in dealing with intelligence is an issue in Italy as well. Procedural obstacles described in this section can be applied to the Italian case as well. For this reason, a reference to the Italian system could be integrated in the report.

### **3.2.2 Specialised judges and quasi-judicial tribunals**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section since specialised judges and quasi-judicial tribunal in charge of surveillance issue do not exist in the Italian judicial system. For this reason, a specific mention does not seem necessary.

## **3.3 Non-judicial remedies: independence, mandate and powers**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section, but a specific reference does not seem necessary as the discipline concerning non-judicial remedies is provided in the following sections.

### **3.3.1 Types of non-judicial bodies**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*
3. *If you 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.*

Italy is not mentioned in this section. Nonetheless, it can be confirmed for Italy too that the DPA has weak remedial power and that the ombudsperson is not competent for surveillance issues. This information could be included in the FRA report.

### **3.3.2 The issue of independence**

1. *If your Member State is mentioned in this chapter/section/sub-section, please check the accuracy of the reference.*
2. *If you 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.*

Italy is mentioned in the last paragraph of this section and the information provided is correct: COPASIR's components are not chosen according to their expertise but as to respect the proportional political composition of the Parliament, as envisaged by art. 30 of the Law No. 124 of 3 August 2007.

### **3.3.3 Powers and specialisation of non-judicial remedial bodies**

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.*

Information provided in this section concerning the Italian system is correct.

FRA key findings

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.*

This section reports FRA general findings in general terms. Italy is not mentioned and neither are the other member States.

### **Conclusions**

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.*

In this section, general conclusions concerning surveillance in the considered member States are reported. Italy is not explicitly mentioned but no additional information should be included.

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

### 1.5.1 Overview of security and intelligence services in the EU-28

- Please, delete all lines not referring to your country in the table below (see Annex p. 93 of the FRA Report)
- Check accuracy of the data
- Add in track changes any missing information (incl. translation and abbreviation in the original language).
- Provide the reference to the national legal framework when updating the table.

Information provided is correct and the data provided is accurate. No information needs to be updated.

	Civil (internal)	Civil (external)	Civil (internal and external)	Military
<b>IT</b>	Information and Internal Security Agency/ Agenzia informazioni e sicurezza interna (AISI)	Information and External Security Agency/ Agenzia informazioni e sicurezza esterna (AISE)		Department information and security/Reparto informazioni e sicurezza (RIS)

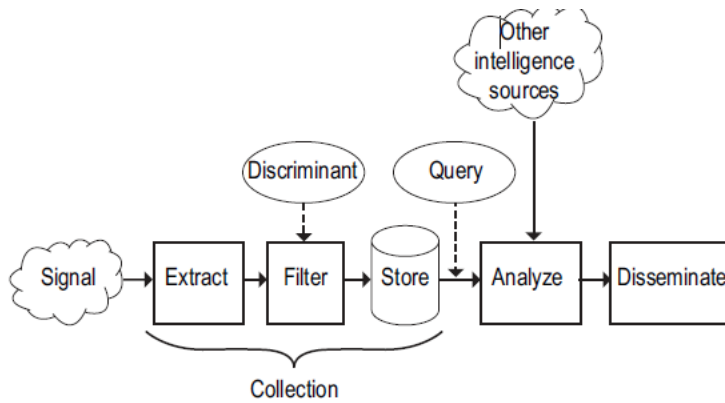
### 1.5.2 Figure 1: A conceptual model of signals intelligence

Please, 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.

Specialised literature that has been analysed for this report provided an explanation on the functioning of the signal intelligence but no alternative drawing. A U.S. Marine Corps publication reports a circular drawing representing signal intelligence: the drawing is available at Figure 1.1 of the report<sup>31</sup>. Unfortunately, no alternative figure is available in Italian specialised literature.

<sup>31</sup> U.S. Marine Corps (1999), *Signals Intelligence*, Washington, 22 February 1999, available at: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.693.4597&rep=rep1&type=pdf>.

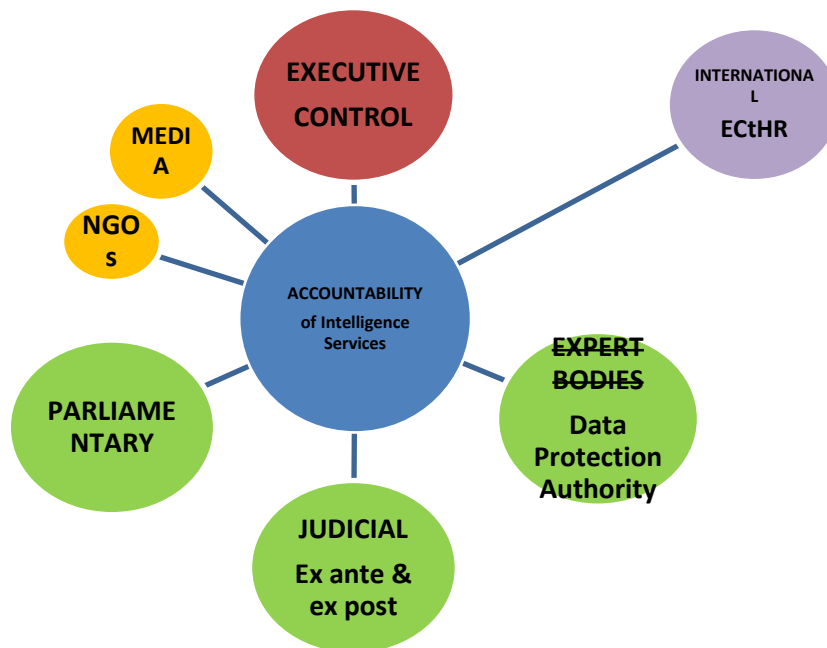




**1.5.3 Figure 2: Intelligence services' accountability mechanisms**

*Please 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.*

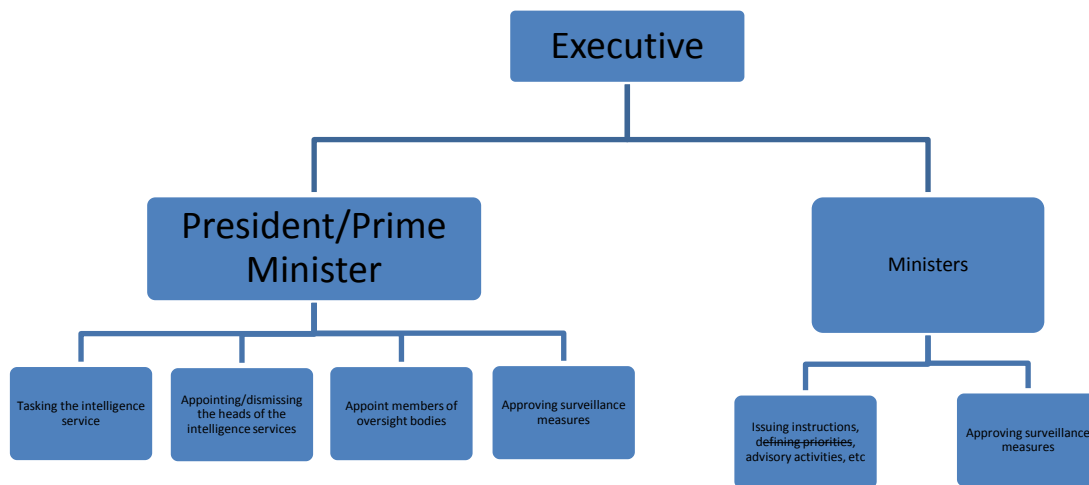
If DPAs are included in the "expert bodies" category Figure 2 correctly represents Italian situation.



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

Please 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.

- “Ministers” should be replaced by “Interministerial Committee for the Security of the Republic (CISR)”
- “Approving surveillance measures” should be replaced by “Financial control of surveillance agencies”<sup>32</sup>



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

Please, delete all lines not referring to your country in the table below (see p. 36 of the FRA Report)

Please check the accuracy of the data.. 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.

The accuracy of the information is confirmed.

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<sup>32</sup> The suggested amendments are based on Italy, Law No. 124 of 3 August 2007 ‘Information System for the Security of the Republic and new discipline for classification’ (*Legge No. 124 del 3 agosto 2007 ‘Sistema di informazione per la sicurezza della Repubblica e nuova disciplina del segreto’*), available at: [www.sicurezzanazionale.gov.it/sisr.nsf/documentazione/normativa-di-riferimento/legge-124-2007.html](http://www.sicurezzanazionale.gov.it/sisr.nsf/documentazione/normativa-di-riferimento/legge-124-2007.html). See also, Italy, Italian Government Information System for the Security of the Italian Republic (*Presidenza del Consiglio dei Ministri. Sistema di informazione per la sicurezza della Repubblica*), “CISR”, Information sheet concerning the activity of the Interministerial Committee for the Security of the Republic (*Comitato Interministeriale per la Sicurezza della Repubblica – CISR*) , available at: [www.sicurezzanazionale.gov.it/sisr.nsf/chi-siamo/organizzazione/comitato-interministeriale-per-la-sicurezza-della-repubblica-cisr.html](http://www.sicurezzanazionale.gov.it/sisr.nsf/chi-siamo/organizzazione/comitato-interministeriale-per-la-sicurezza-della-repubblica-cisr.html).

Member States	Essential powers	Enhanced powers
IT	X	

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

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

Please, delete all lines not referring to your country in the table below (p. 42 of the FRA Report). Please check the accuracy of the data. In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

The accuracy of the information is confirmed.

EU Member State	Expert Bodies
IT	N.A.

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

Please, delete all lines not referring to your country in the table below (p. 49 of the FRA Report). Please check the accuracy of the data. In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

The accuracy of the information is confirmed.

EU Member State	No powers	Same powers (as over other data controllers)	Limited powers
IT			X

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

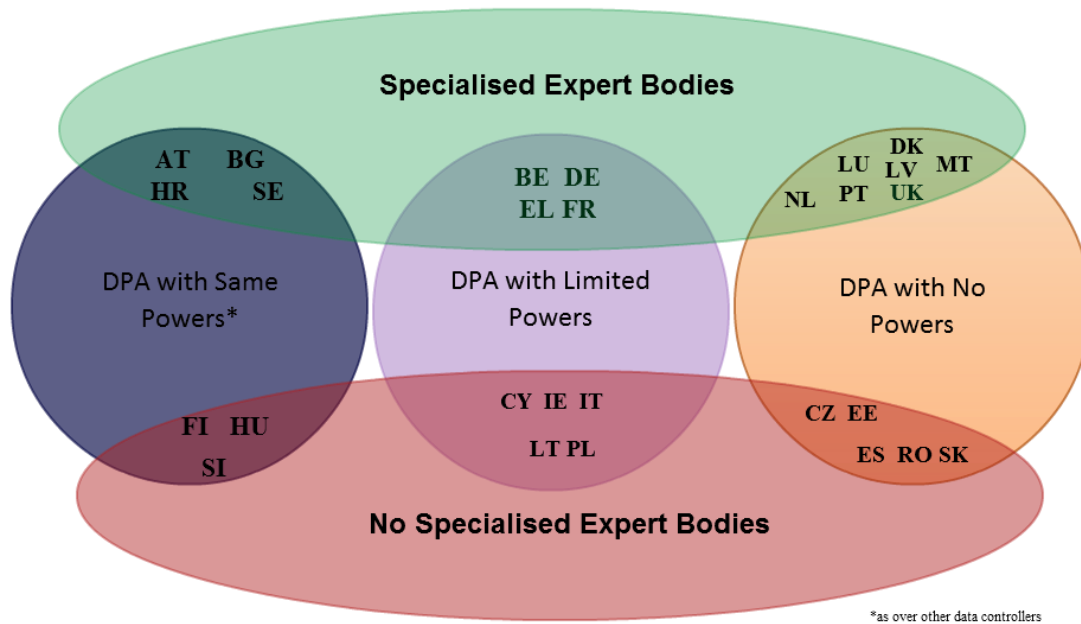
Same powers: refers to DPAs that have the exact same powers over NIS as over any other data controller.

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.

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

Please 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.

Figure 4 correctly represents Italian situation.



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

Please, delete all lines not referring to your country in the table below (p. 52 of the FRA Report). Please check the accuracy of the data. In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

The accuracy of the information is confirmed.

EU Member State	Judicial	Parliamentary	Executive	Expert bodies	None
IT	X				

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

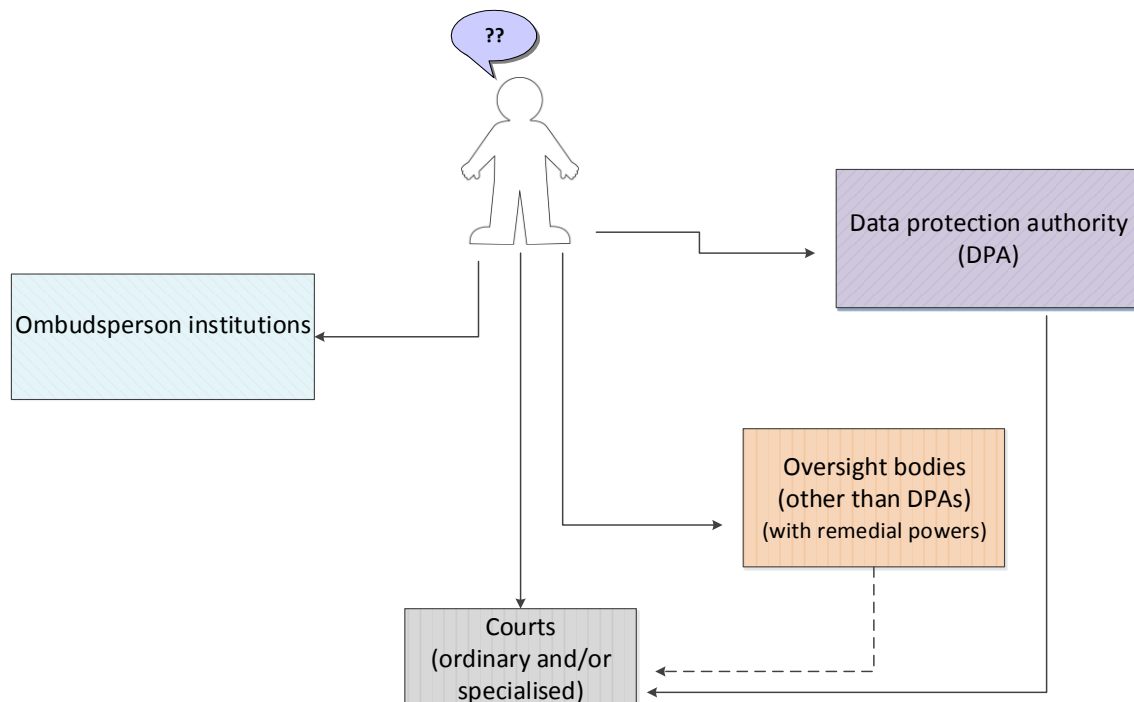
Please check the accuracy of Table 5 below (p. 55 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

EU Member State	Judicial	Parliamentary	Executive	Expert
FR			X	

DE		X (telco relations)		X (selectors)
NL			X (selectors)	
SE				X
UK			X	

### 1.5.11 Figure 5: Remedial avenues at the national level

Please 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.

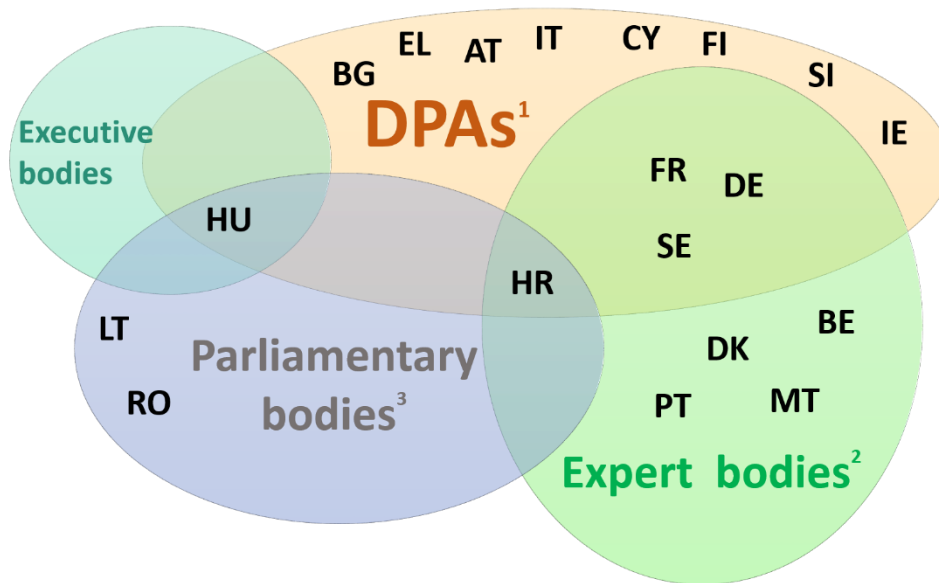


In the Italian case, only Ordinary Courts and the DPA are involved in remedial procedures (art. 2043 of the Civil Code; art. 142 and 152 of the Data Protection Act (Legislative Decree No. 196 of 30 June 2003); Memorandum of Understanding signed between the DIS (Department for Security Information) and the DPA.

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

Please 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.

Figure 6 correctly represents Italian situation since COPASIR – which is a parliamentary body - is not in charge to hear individual complaint and neither are executive bodies. Expert bodies do not exist in Italy.



- 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.