

# Short Thematic Report

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

Legal update

Country: LATVIA

Version of 4 July 2016

FRANET contractor: Latvian Centre for Human Rights

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

DISCLAIMER: This document was commissioned under a specific contract as background material for the project on [National intelligence authorities and surveillance in the EU: Fundamental rights safeguards and remedies](#). The information and views contained in the document do not necessarily reflect the views or the official position of the EU Agency for Fundamental Rights. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion. FRA would like to express its appreciation for the comments on the draft report provided by Latvia that were channelled through the FRA National Liaison Officer.

# 1 Description of tasks – Phase 3 legal update

## 1.1 Summary

On 10 March 2016, the Saeima amended the Investigatory Operations Law (*Operatīvās darbības likums*),<sup>1</sup> and these amendments will come into force on 1 August 2016. This Law provides the relevant legal framework for surveillance operations carried out by the national intelligence authorities for the protection of state and national security, and by the law enforcement agencies when combating crime. A new draft law Aircraft Passenger Data Processing Law (*Gaisa kuģu pasažieru datu apstrādes likums*) has also been drafted<sup>2</sup> and formally adopted by the Cabinet of Ministers.<sup>3</sup> This law will allow both the law enforcement agencies and national intelligence authorities to access passenger data with the aim of combating serious crimes and protecting national security. According to the law, state intelligence and security institutions and law enforcement authorities will not have direct access to the Passenger Name Record (PNR) (*Gaisa kuģu pasažieru datu reģistrs*). These institutions will be able to request information from the PNR only after the approval of Prosecutor General's Office or a judge. Passenger Information Unit (PIU) (*Pasažieru informācijas nodaļa*), a separate unit within the Latvian Security Police (DP), will have an access to the PNR.

The amendments to the Investigatory Operations Law provide more detailed criteria for the decisions of the officials carrying out surveillance activities (investigative operations) according to the special method (i.e. those investigations likely to infringe upon fundamental rights). They also require a mandatory *ex-post* report to be submitted within 10 days after the completion of an investigative operation, and provide more detailed requirements for the approval by a judge or prosecutor of the investigatory operations.

A new provision obligates the relevant authorities to obtain an approval by a judge appointed by the President of a District (City) Court, when the request concerns retention of data for a period of time exceeding 30 days (Article 9, Paragraph 5). The provision will come into force in 2020. A new provision has also been added defining extended operational surveillance as that which lasts more than 30 days (Article 10 (2)). This kind of measure should be possible only during the course of approved operational proceedings.

The amendments also strengthen the state's obligations concerning the duty of those conducting investigatory activities to inform the individual against whom the activities were conducted in accordance with the special method – the individual shall be informed *ex post* about the type of investigatory activity and respective period of time for which it had been applied (Article 24.<sup>1</sup>). Paragraph 2 lists exceptions to this obligation, namely, if there is a possible threat to another person's legitimate rights and interests, national security or criminal procedure, possible disclosure of the fact of the covert cooperation or identity of the person or persons who

<sup>1</sup> Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

<sup>2</sup> Latvia, Ministry of Interior (*Iekšlietu ministrija*). Draft Law “On Airline Passenger Data Processing” (*Likumprojekts “Gaisa kuģu pasažieru datu apstrādes likums”*), available in Latvian at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40358101&mode=mkk&date=2016-06-06>

<sup>3</sup> Latvia, Ministry of Interior (*Iekšlietu ministrija*). Draft Law “On Airline Passenger Data Processing” (*Likumprojekts “Gaisa kuģu pasažieru datu apstrādes likums”*), available in Latvian at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40358101&mode=mkk&date=2016-06-06>

provided the information etc. In this case, the individual concerned shall not be informed *ex post* about surveillance activities carried out with respect to him/her. Each single case is to be examined on an individual basis, and the existence of the afore-mentioned circumstances, which warrant the exception, must be established in order for the exception to be applied.

New amendments provide the procedure for examining the activities of the officials performing surveillance activities on the basis of a complaint submitted by a person claiming that his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor of the Prosecutor General's Office. The examination can be extended for two months with the approval of the Prosecutor General. The examination should be completed with a legal conclusion of the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right of the individual to make an application before the court (Article 36).

A new provision has been added to the Investigatory Operations Law defining extended investigatory surveillance as one which lasts more than 30 days (Article 10 (2)). This measure is only applicable within the specific stage of operational proceedings.<sup>4</sup>

During the reporting period there have been no inquiries or reports published by the oversight bodies (parliamentary) in relation to the Snowden revelations.<sup>5</sup> No specific ad hoc parliamentary or non-parliamentary commissions have been set up to deal with the Snowden revelations and/or the reform of surveillance by intelligence services.<sup>6</sup>

On 14 June 2016, the draft law Aircraft Passenger Data Processing Law (*Gaisa kuģu pasažieru datu apstrādes likums*) elaborated by the Ministry of Interior was adopted by the Cabinet of Ministers ((*MK*) *Ministru kabinets*).<sup>7</sup> The draft law replaced an earlier version of the law "On Passenger Data Processing" (*Pasažieru datu apstrādes likums*) elaborated by the Ministry of Interior (*Iekšlietu ministrija*) in June 2015.<sup>8</sup> The explanatory note of the new draft law was significantly expanded giving reference to the relevant case law of the ECtHR and the CJEU, previously absent in the initial explanatory note.

The aim of the draft law is to provide passenger data processing for the purposes of crime prevention, detection of crime, securing of evidence, as well as the prevention of threats to national security, public order and safety. The law determines the procedure for the maintenance and access to the PNR. The Security Police is charged with processing the data, while the Ministry of Interior Information Centre (*Iekšlietu ministrijas Informācijas centrs*) will keep the Register. The law foresees the creation of a Passenger Information Unit ((PIN) *Pasažieru informācijas nodaļa*) within the Security Police, which will be responsible for passenger data processing and analysis.

The law provides for passenger information to be included in the register, the procedure for the inclusion, maintenance and access. The law spells out the obligation of the air carrier to transmit passenger data for automated inclusion in the register (not earlier than 48 hours and not later than 24 hours before departure, and after completion of boarding) for both external and intra-

3

<sup>4</sup> Latvia, Investigatory Operations Law (*Operatīvās darbības likums*), 16.12.1993, Article 10 para 2, available in Latvian at <http://likumi.lv/doc.php?id=57573>

<sup>5</sup> Latvia, Cabinet of Ministers (*Ministru kabinets*), in Latvian at [www.mk.gov.lv](http://www.mk.gov.lv),

<sup>6</sup> Latvia, Saeima (parliament), in Latvian at [www.saeima.lv](http://www.saeima.lv),

<sup>7</sup> Latvia, Ministry of Interior (*Iekšlietu ministrija*). Draft Law "On Airline Passenger Data Processing" (*Likumprojekts "Gaisa kuģu pasažieru datu apstrādes likums"*), 06.06.2016, available in Latvian at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40358101&mode=mkk&date=2016-06-06>

<sup>8</sup> Latvia, Ministry of Interior (*Iekšlietu ministrija*). Draft Law "On Passenger Data Processing", 06.06.2016. (*Likumprojekts "Pasažieru datu apstrādes likums"*), available in Latvian at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40358102>

EU flights. In urgent cases if requested by the PIU, the aircraft carrier will have to provide passenger data within four hours. The draft law spells out the right of the PIU to request the transmission of passenger data to the register in cases of intra-EU flights for a period not to exceed six months. Passenger data which have been stored in the register for six months (in the earlier version 2 years) are to be anonymised, and may be retained for five years, and then will be automatically deleted. Ten institutions will have the right to access passenger data.<sup>9</sup> If passenger data are required within operational activities the institutions will have to seek the prosecutor's authorisation, if for purposes of criminal proceedings, or that of an investigative judge. The prosecutor and investigative judge may extend the authorisation for six months if justification remains. In cases of urgency to prevent an act of terrorism or a real threat to life and health of a person, information from the Register can be provided without prior authorisation of a prosecutor or investigative judge, but with an obligation to obtain mandatory *ex post* authorisation. The law regulates the transmission of passenger data by the PIU to foreign countries, as well as reasons for the refusal of transmission of such data. The law prohibits the processing of sensitive data of passengers, e.g. person's race, ethnic or social origin, political, religious or other beliefs, trade union membership, genetic characteristics, information about health, sexual life or sexual orientation or any other sensitive data. The draft law currently submitted to the Parliament does not foresee any oversight by the State Data Inspectorate (*Datu Valsts inspekcija*).

The review of the draft law by the government was postponed several times and was formally adopted by the Cabinet of Ministers on 14 June 2016.<sup>10</sup> Subsequently, the draft law will be submitted to the Parliament. Currently, the Office of the Prosecutor General has lodged a reservation whereby it insists that the *ex ante* authorisations to access the PNR should be issued by the competent domestic courts only, instead of the proposed shared responsibility between the courts and the Prosecutor Offices.<sup>11</sup>

## 1.2 International intelligence services cooperation

According to the law concerning the Constitutional Protection Bureau (*Satversmes aizsardzības biroja likums*), in order to ensure the implementation of the tasks and aims set by law, the National Security Concept (*Nacionālās drošības koncepcija*) and the National Security Plan, the Director of the Constitutional Protection Bureau shall organize cooperation between the Constitutional Protection Bureau and foreign intelligence services.<sup>12</sup>

Neither the Law on the Constitutional Protection Bureau<sup>13</sup>, nor the National Security Law<sup>14</sup>, nor the Cabinet of Ministers Regulations No. 716 "By-law of Defence Intelligence and Security

4

<sup>9</sup> Security Police, State Police, State Border Guard (*Valsts robežsardze*), Iekšējās drošības birojs (*Internal Security Service*), Corruption Prevention and Combatting Bureau (*Korupcijas novēršanas un apkarošanas birojs*), Military Police (*Militārā policija*), Defence Intelligence and Security Service (*Militārās izlūkošanas un drošības dienests*), Constitutional Protection Bureau (*Satversmes aizsardzības birojs*), State Revenue Service (*Valsts ieņēmumu dienests*), Prosecutors' offices.

<sup>10</sup> Latvia (2016). Agenda of the Meeting of the Republic of Latvia Cabinet of Ministers Committee, 6 June, in Latvian at <http://tap.mk.gov.lv/mk/mkksedes/saraksts/s/darbakartiba/?sede=538>

<sup>11</sup> Leta (2016). Still Failing to Harmonize the Elaborated Draft "Law on Airline Passenger Data Processing" (*Joprojām neizdodas saskaņot precizēto avio pasažieru datu apstrādes likumprojektu*), 5 June. (available only to subscribers)

<sup>12</sup> Latvia, Law On Constitution Protection Bureau (*Satversmes aizsardzības biroja likums*), Article 5 Paragraph 5(3), 05.05.1994, available in Latvian at: <http://likumi.lv/doc.php?id=57257>

<sup>13</sup> Latvia, Law On Constitution Protection Bureau (*Satversmes aizsardzības biroja likums*), 05.05.1994., available in Latvian at: <http://likumi.lv/doc.php?id=57257>

<sup>14</sup> Latvia National Security Law (*Nacionālās drošības likums*), 14.12.2000, available in Latvian at: <http://likumi.lv/ta/id/14011-nacionalas-drosibas-likums>

Service”<sup>15</sup> include provisions regulating international intelligence cooperation. Pursuant to Article 2.7.12 of Cabinet of Ministers Regulation No 887 “List of Official Secret Objects”<sup>16</sup> co-operation of the operational services of the National security authorities, the institutions of the system of the Ministry of the Interior and the Bureau for the Prevention and Combating of Corruption (except for procedural co-operation) with foreign special services, law enforcement authorities and organisations is classified.

There is no public information about the oversight of international cooperation agreements, or on data exchanged between the services and any joint surveillance activities.<sup>17</sup>

5

<sup>15</sup> Latvia, Cabinet of Ministers Regulations No.716 “By-law of Defence Intelligence and Security Service” (*Ministru kabineta noteikumi Nr. 716 “Militārās izlūkošanas un drošības dienesta nolikums*), 17.08.2004, available in Latvian at: <http://likumi.lv/doc.php?id=92649>

<sup>16</sup> Latvia, Cabinet of Ministers Regulation No 887 “List of Official Secret Objects” (*Ministru kabineta noteikumi nr. 887 “Valsts noslēpuma objektu saraksts”*), at <https://likumi.lv/doc.php?id=95649>

<sup>17</sup>Law On State Security Institutions (*Valsts drošības iestāžu likums*), 05.05.1994, available in Latvian at: <http://likumi.lv/doc.php?id=57256> ; Military Intelligence and Security Service Law (*Militārās izlūkošanas un drošības dienesta likums*), 17.08.2004, available in Latvian at: <http://likumi.lv/doc.php?id=92649> , Cabinet of Ministers Regulations No. 934 “By-laws of the Security Police” (*Ministru kabineta noteikumi Nr. 934 “Drošības policijas nolikums”*), 16.11.2004, available in Latvian at: <http://likumi.lv/doc.php?id=96798> ; Law On Constitution Protection Bureau (*Satversmes aizsardzības biroja likums*), 05.05.1994, available in Latvian at: <http://likumi.lv/doc.php?id=57257>; Latvia, National Security Law (*Nacionālās drošības likums*), 14.12.2000, available in Latvian at: <http://likumi.lv/ta/id/14011-nacionalas-drosibas-likums> ; Meetings of the parliamentary National Security Commission ( 14.01.2015- 11.05.2016.), <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/webComisCat?OpenView&restrictToCategory=12|Nacion%C4%81%C4%81s%20dro%C5%A1%C4%ABbas%20komisija&count=1000>; Annual Report of the Constitution Protection Bureau from 2005-2015, <http://www.sab.gov.lv/?a=s&id=42> ; Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

5

### 1.3 Access to information and surveillance

According to the Investigatory Operations Law all the information, including information about personal data, which is obtained during an official operation, is classified as a restricted access information or as a state secret (confidential, secret or top secret).<sup>18</sup> The list of information and other objects recognised as state secret, and the scope and content are prescribed by Cabinet Regulations No 887 “The List of Official Secret Objects” adopted on 26 October 2004. State secrets also include information obtained during operational surveillance.<sup>19</sup> Subsequently, all the information on operational measures and information obtained during an official operation which is classified as a state secret falls outside of the scope of the application of the Freedom of Information Law of 1998, as the latter sets out the legal framework on the access to information which is “publicly available” or “restricted” only (Article 3 of the Freedom of Information Law).

If information or measures undertaken during investigatory operations are classified as a state secret, the person has no right to be informed about or to verify the information. However, if the person under surveillance believes that his or her lawful interests and freedoms have been violated, he/she has the right to either submit a complaint to the prosecutor, who after a review issues a compliance statement, or submit a claim in court.<sup>20</sup>

The amendments to the Investigatory Operations Law adopted on 10 March 2016<sup>21</sup> strengthen the state’s obligations concerning the duty of the agency performing surveillance activities to inform the person about whom the stated activities were conducted about the investigation and the period of time during which it was made in accordance with the special method of performing investigatory activities (Article 24, paragraph 2). The individual concerned shall be informed about the type and duration of the measure only, without providing any additional information concerning the underlying reasons or the agency who carried out the specific measures. Paragraph 2 lists exceptions to this obligation, including possible threat to another person’s legitimate rights and interests, national security or criminal procedure, possible disclosure of the fact of covert cooperation or identity of the person, who provided the information etc. (Article 24, paragraph 2). The disclosure proceedings shall apply irrespective of whether the operational activities have been carried out within the framework of intelligence activities or in relation to the law enforcement proceedings.

A new Article 36 provides for the procedure of examining the activities of officials conducting investigative operations on the basis of a complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for another two months with the approval of the Prosecutor General. The examination should end with the a legal conclusion furnished by the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to an application before the court.

6

<sup>18</sup> Latvia, Investigatory Operations Law (*Operatīvās darbības likums*), 16.12.1993, Section 24, paragraph 1, available in Latvian at <http://likumi.lv/doc.php?id=57573>

<sup>19</sup> Latvia, Cabinet Regulations No 887 “List of Official Secret Objects” (*Valsts noslēpuma objektu saraksts*), Nr. 2.6.3, 2.7.5 available in Latvian at <http://likumi.lv/ta/id/95649-valsts-noslepuma-objektu-saraksts>

<sup>20</sup> Latvia, Investigatory Operations Law, (*Operatīvās darbības likums*), 16.12.1993, Section 5, available in Latvian at <http://likumi.lv/doc.php?id=57573> ; Latvia, Law on State Security Institutions (*Valsts drošības iestāžu likums*), 19.05.1994, Section 6, available in Latvian at <http://likumi.lv/doc.php?id=57256>

<sup>21</sup> Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

The amendments will come in force on 1 August 2016.

## 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.

Latvia is not mentioned in this chapter.

2. If your Member State is mentioned, please update the data (new legislation, new report etc.)

Latvia is not mentioned in the chapter and there have been no new developments.

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.

There have been no new developments in respect of Latvia.

### 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.

The information concerning Latvia is correct.

2. If your Member State is mentioned, please update the data (new legislation, new report etc.) 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.

#### 1.1 Intelligence services

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

The information about Latvia is not correct. DP activities do not belong directly to the police and law enforcement authorities. DP is internal intelligence and security service and the work of DP is supervised by the Minister of Interior.

2. If your Member State is mentioned, please update the data (new legislation, new report etc.)

There have been no developments concerning intelligence services in Latvia during the period under review.

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.

#### 1.2 Surveillance measures

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

Latvia is not mentioned in this sub-section.



2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

*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.*

There have been no developments in Latvia concerning capacity to conduct mass surveillance.

### **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.*

Latvia is not mentioned in this section.

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.*

There have been no updates concerning Latvia in this regard.

### **FRA key findings**

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

Latvia is not explicitly mentioned in the section.

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.*

There is no update concerning Latvia during the reporting period.

## **2 Oversight of intelligence services**

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

Latvia is not explicitly mentioned in this section.

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.*

There is no new information concerning the oversight of intelligence services in Latvia during in the reporting period.

### **2.1 Executive control**

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

Latvia is not explicitly mentioned in this section,

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.*

There is no new public information about the executive control of intelligence services during the period under review.

## **2.2 Parliamentary oversight**

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

Latvia is not explicitly mentioned in the section.

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.*

There is no new information about the parliamentary oversight of intelligence services during the period under review.<sup>22</sup>

### **2.2.1 Mandate**

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

The information in respect of Latvia is correct

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.*

There have been no new developments concerning the mandate of the parliamentary National Security Commission.

### **2.2.2 Composition**

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

The information in respect of Latvia is correct.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

There is no new information concerning Latvia.

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.*

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

10

<sup>22</sup>Latvia, Saeima (2016). National Security Commission (Nacionālās drošības komisija), in Latvian at [http://www.saeima.lv/faktulapas/3101\\_Nacionalas\\_drosibas\\_komisija\\_faktu\\_lapaLV\\_SCREEN.pdf](http://www.saeima.lv/faktulapas/3101_Nacionalas_drosibas_komisija_faktu_lapaLV_SCREEN.pdf), Meetings of the National Security Commission <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/webComisCat?OpenView&restrictToCategory=12|Nacion%C4%81%C4%81s%20dro%C5%A1%C4%ABbas%20komisija&count=1000>

10

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

Latvia is not explicitly mentioned in this section.

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.*

There is no new information concerning access to information and documents by the parliamentary National Security Commission in Latvia.

#### **2.2.4 Reporting to parliament**

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

Latvia is not mentioned in this sub-section.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section, hence there is no updated information.

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.*

There is no new information concerning reporting to parliament by the parliamentary National Security Commission in Latvia.

### **2.3 Expert oversight**

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

Latvia is not mentioned in this section.

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.*

There is no new information concerning expert oversight in respect of Latvia.

#### **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.*

Latvia is not mentioned in this section,

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.*

Latvia does not have specialised expert bodies and there have been no changes during the reporting period.

### 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.*

The information about Latvia is correct.

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.*

There have been no changes concerning Data State Inspectorate during the reporting period and it has no authority with regard to the intelligence services.

### 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.*

Reference 402 needs to be corrected. Article 19. Section 2. Para 1 of Investigatory Operations Law needs to be replaced with Article 23.2. section 3 and 4 and Article 26., section 1 and 2 of Law On State Security Institutions.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

On 10 March 2016, Saeima amended the Investigatory Operations Law.

A new provision obligates the relevant authorities to obtain an approval by a judge appointed by the President of a District (City) Court, when the request concerns retention of data for a period of time exceeding 30 days (Article 9, Paragraph 5). The provision will come into force in 2020. The amendments also provide more detailed requirements for the approval by judge or prosecutor of the investigatory operations, including the examination of information, documents and materials at the disposal of those conducting investigatory operations, examination of justification of such decision. A new Article 23<sup>2</sup> requires those who have conducted an investigatory operation to submit a report *ex post* for a review within 10 days after the respective measure had been conducted. In cases of changes to the initial approval, the superior notifies Prosecutor General who authorises a prosecutor to conduct *ex post review*. If the prosecutor considers that changes to the initial approval have not been justified, and have led to essential interference with fundamental rights, the relevant authority is ordered to destroy the information obtained during investigatory operational. The prosecutor shall notify the judge authorised by the Supreme Court concerning the changes to the initial authorisation.<sup>23</sup> The afore-mentioned safeguards will be applicable to all types of investigatory operations, irrespective of their aim – either those conducted within the framework of law enforcement operations, or those conducted by the national intelligence agencies.

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.*

### FRA key findings

12

<sup>23</sup> Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

12

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

Latvia is not explicitly mentioned in the section,

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.*

### **3 Remedies**

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

Latvia is not mentioned in this section.

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.*

With the amendments to the Investigatory Operations Law a new Article 36 provides the procedure of examining the activities of the officials performing investigatory operations on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should be finished with the conclusion of the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.<sup>24</sup> The afore-mentioned safeguards will be applicable to all types of investigatory operations, irrespective of their aim – either those conducted within the framework of law enforcement operations, or those conducted by the national intelligence agencies. The Prosecutor's Office shall be authorised to conduct an in-depth examination in response to the complaint lodged by the individual, to issue binding decisions upon the respective authorities and to initiate disciplinary and/or criminal proceedings in cases when serious violations have been found. However, the Prosecutor's Office has no authority to make compensatory awards. In order to obtain the compensatory remedy, the individual concerned shall have to lodge an application with the domestic courts, which on the basis of the materials at their disposal, including the conclusion of the Prosecutor's Office, shall decide on the matter.

#### **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.*

Information in respect of Latvia in this section is accurate.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

The amendments to Investigatory Operations Law adopted on 10 March 2016<sup>25</sup> strengthen the state's obligations concerning the duty of those conducting operational activities to inform the

13

<sup>24</sup>Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

<sup>25</sup> Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

individual against whom the activities were conducted in accordance with the special method – the individual shall be informed *ex post* about the type of investigatory operation and respective period of time for which it had been applied (Article 24.<sup>1</sup>), without providing any additional information concerning the underlying reasons or the agency who carried out the specific measures Paragraph 2 lists exceptions to this obligation, namely, if there is a possible threat to another person's legitimate rights and interests, national security or criminal procedure, possible disclosure of the fact of the covert cooperation or identity of the person or persons who provided the information etc. In this case, the individual concerned shall not be informed *ex post* about investigatory operation carried out with respect to him/her. Each single case is to be examined on an individual basis, and the existence of the afore-mentioned circumstances, which warrant the exception, must be established in order for the exception to be applied. The disclosure proceedings shall apply irrespective of whether the surveillance operations have been carried out within the framework of intelligence activities or in relation to the law enforcement proceedings.

A new Article 36 provides the procedure of examining the activities of the officials performing investigatory operation on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should end with the conclusion furnished by the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.

The amendments will come in force on 1 August 2016.

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.*

### **3.2 Judicial remedies**

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

Latvia is not mentioned in this sub-section

2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section

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.*

There are no new developments concerning judicial remedies Latvia during the reporting period

#### **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.*

Latvia is not mentioned in this sub-section.

2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section.

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.*

There are no new developments concerning lack of specialisation and procedural obstacles in Latvia.

### **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.*

Latvia is not mentioned in this sub-section.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*
3. Latvia is not mentioned in this sub-section.
4. *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.*

With the amendments to the Investigatory Operations Law a new Article 36 provides the procedure of examining the activities of the officials performing investigatory operations on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should be finished with the conclusion of the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.<sup>26</sup> The afore-mentioned safeguards will be applicable to all types of investigatory operations, irrespective of their aim – either those conducted within the framework of law enforcement operations, or those conducted by the national intelligence agencies. The Prosecutor's Office shall be authorised to conduct an in-depth examination in response to the complaint lodged by the individual, to issue binding decisions upon the respective authorities and to initiate disciplinary and/or criminal proceedings in cases when serious violations have been found. However, the Prosecutor's Office has no authority to make compensatory awards. In order to obtain the compensatory remedy, the individual concerned shall have to lodge an application with the domestic courts, which on the basis of the materials at their disposal, including the conclusion of the Prosecutor's Office, shall decide on the matter.

### **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.*

Latvia is not mentioned in this sub-section.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section.

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.*

There are no developments concerning non-judicial remedies in Latvia during the reporting period.

<sup>26</sup> Latvia, Amendments to the Investigatory Operations Law, 10.03.2016

### **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.*

Latvia is not mentioned in this sub-section.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section.

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.*

There is no new information concerning non-judicial bodies in relation to Latvia.

### **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.*

Latvia is not mentioned in this sub-section.

2. *If your Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section.

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.*

There is no new information concerning non-judicial bodies in relation to Latvia.

### **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.*

The information concerning Latvia is correct.

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.*

There is no new information concerning non-judicial bodies in relation to Latvia.

### **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.)*

The amendments to Investigatory Operations Law adopted on 10 March 2016<sup>27</sup> strengthen the state's obligations concerning the duty of those conducting operational activities to inform the individual against whom the activities were conducted in accordance with the special method – the individual shall be informed *ex post* about the type of investigatory operation and respective period of time for which it had been applied (Article 24.<sup>1</sup>), without providing any additional information concerning the underlying reasons or the agency who carried out the specific measures Paragraph 2 lists exceptions to this obligation, namely, if there is possible a threat to another person's legitimate rights and interests, national security or criminal

16

<sup>27</sup> Latvia, Amendments to the Investigatory Operations Law, 10.03.2016.



procedure, possible disclosure of the fact of the covert cooperation or identity of the person or persons who provided the information etc. In this case, the individual concerned shall not be informed *ex post* about investigatory operation carried out with respect to him/her. Each single case is to be examined on an individual basis, and the existence of the afore-mentioned circumstances, which warrant the exception, must be established in order for the exception to be applied. The disclosure proceedings shall apply irrespective of whether the operational activities have been carried out within the framework of intelligence activities or in relation to the law enforcement proceedings.

With the amendments to the Investigatory Operations Law a new Article 36 provides the procedure of examining the activities of the officials performing investigatory operations on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should be finished with the conclusion of the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.<sup>28</sup> The afore-mentioned safeguards will be applicable to all types of investigatory operations, irrespective of their aim – either those conducted within the framework of law enforcement operations, or those conducted by the national intelligence agencies. The Prosecutor's Office shall be authorised to conduct an in-depth examination in response to the complaint lodged by the individual, to issue binding decisions upon the respective authorities and to initiate disciplinary and/or criminal proceedings in cases when serious violations have been found. However, the Prosecutor's Office has no authority to make compensatory awards. In order to obtain the compensatory remedy, the individual concerned shall have to lodge an application with the domestic courts, which on the basis of the materials at their disposal, including the conclusion of the Prosecutor's Office, shall decide on the matter.

3. *If your Member State is not mentioned, please provide data that would call for a specific reference given. Is there a relevance of the situation in your Member State to illustrate/complement FRA comparative analysis.*

With the amendments to the Investigatory Operations Law a new Article 36 provides for procedure of examining the activities of officials performing investigatory operations on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should end with the conclusion furnished by the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.<sup>29</sup>

## **Conclusions**

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

Latvia is not mentioned in this sub-section.

17

<sup>28</sup>Latvia, Amendments to the Investigatory Operations Law, 10.03.2016

<sup>29</sup>Latvia, Amendments to the Investigatory Operations Law (*Grozījumi Operatīvās darbības likumā*), 10.03.2016, available in Latvian at <http://likumi.lv/ta/id/281095-grozijumi-operativas-darbibas-likuma>

2. *If you Member State is mentioned, please update the data (new legislation, new report etc.)*

Latvia is not mentioned in this sub-section.

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.*

There have been no new developments in Latvia during the period under review.

## 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

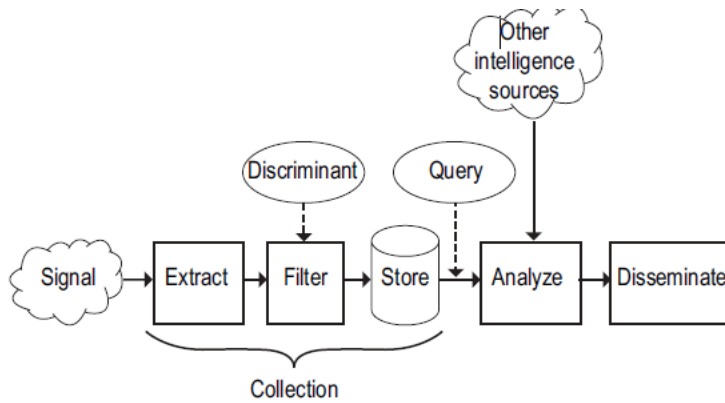
- *Please, delete all lines not referring to your country in the table below (see Annex p. 93 of the FRA Report)*
- *Check accuracy of the data*
- *Add in track changes any missing information (incl. translation and abbreviation in the original language).*
- *Provide the reference to the national legal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

	<b>Civil (internal)</b>	<b>Civil (external)</b>	<b>Civil (internal and external)</b>	<b>Military</b>
<b>LV</b>	<i>Latvian Security Police/ Drošības policija (DP)</i>	<i>Constitutional Protection Bureau/ Satversmes aizsardzības birojs (SAB)</i>		<i>Defence Intelligence and Security Service/Militārās izlūkošanas un drošības dienests (MISS)<sup>30</sup></i>

### 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.*

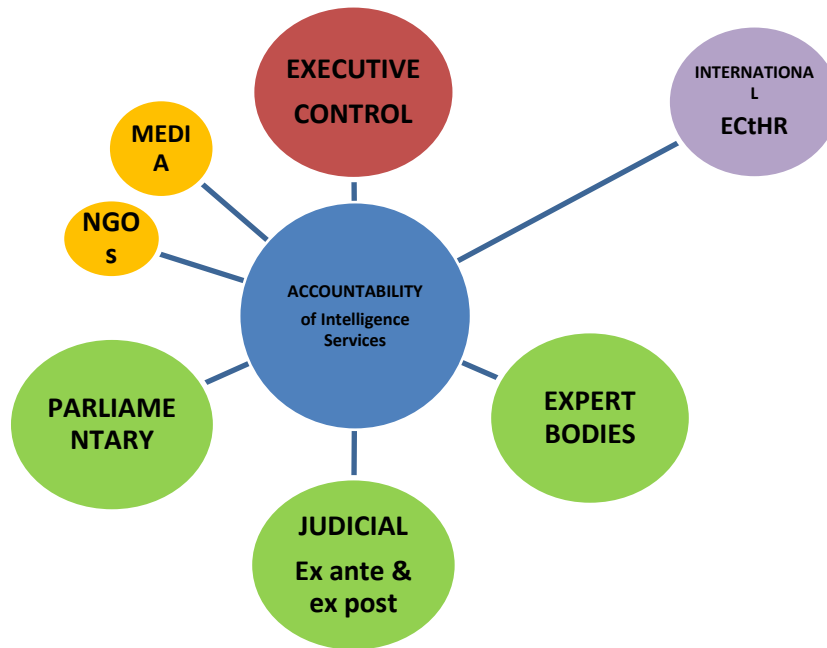
<sup>30</sup>[http://www.midd.gov.lv/en/Par\\_mums.aspx](http://www.midd.gov.lv/en/Par_mums.aspx) Acts as a national signals intelligence (SIGINT) authority of the Republic of Latvia carries out and controls SIGINT and guarantees protection of the information collected



**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.*

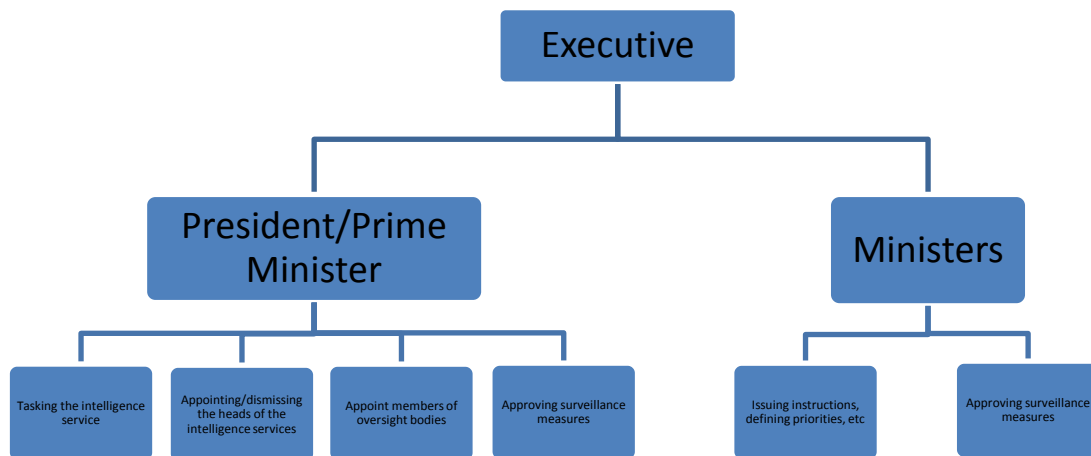
There are no expert bodies in Latvia to which intelligence services are accountable.



**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.

In Latvia, neither the Prime Minister nor Ministers are tasked with the approval of surveillance measures. The head of the civilian intelligence service - Constitutional Protection Bureau - is appointed by the parliament, while the heads of Security Police and Defence Intelligence and Security Service are appointed/dismissed by respective ministers.



**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.

Member States	Essential powers	Enhanced powers
LV	X	

The data are accurate for Latvia.

**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.

EU Member State	Expert Bodies
LV	N.A.

The data are accurate for Latvia.

### 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.

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

The data are accurate for Latvia.

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

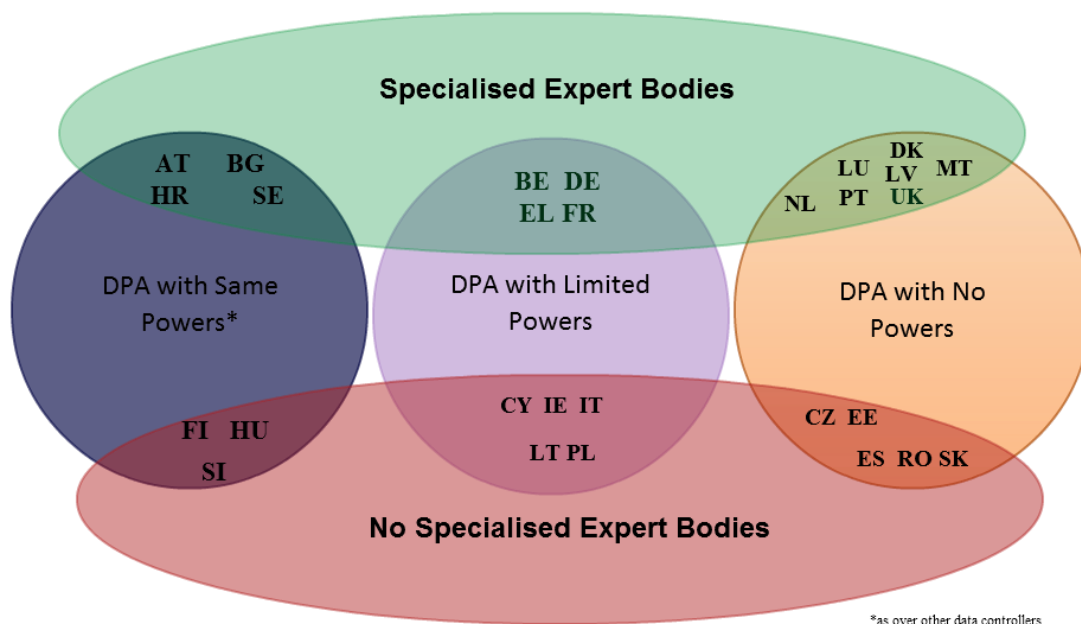
*Same powers*: refers to DPAs that have the exact same powers over NIS as over any other data controller.

*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.

LV – Latvia does not have specialised expert bodies – should be moved to CZ, EE ES, RO, SK



### 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.

EU Member State	Judicial	Parliamentary	Executive	Expert bodies	None
LV	X				

The data are accurate for Latvia

### 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	

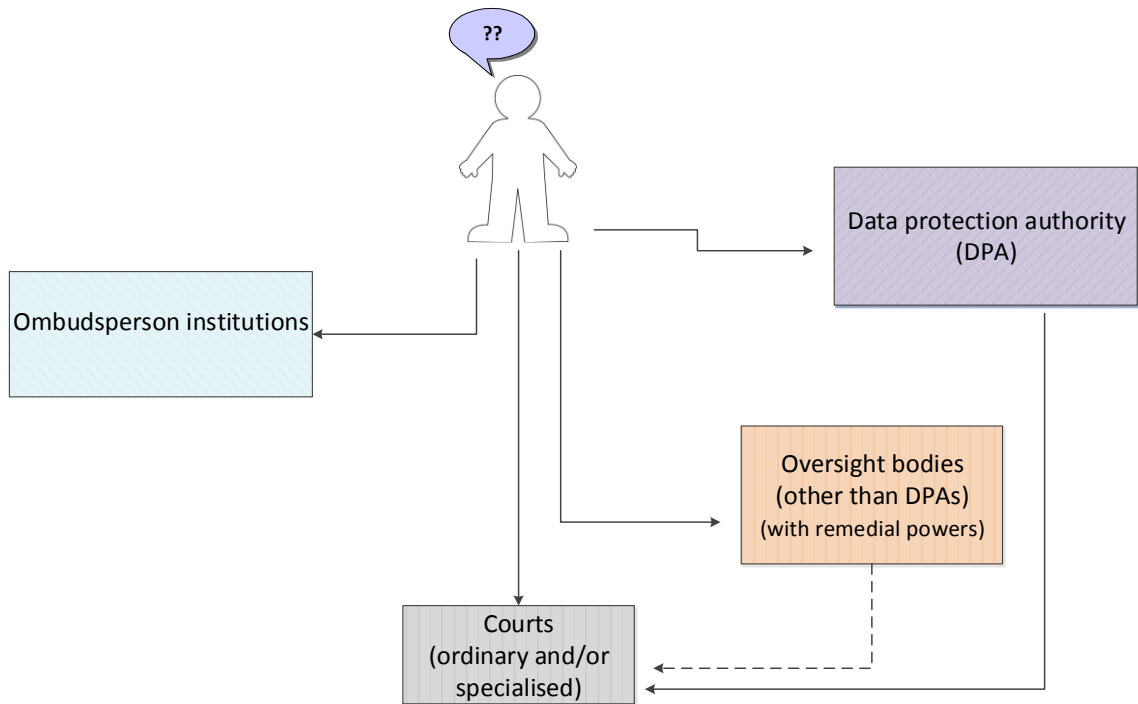
### **1.5.11 Figure 5: Remedial avenues at the national level**

*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.*

With the amendments to the Investigatory Operations Law a new Article 36 provides the procedure of examining the activities of the officials performing investigatory operations on the basis of the complaint submitted by the person claiming his or her rights were violated. The examination in such cases should be conducted within two months by a specially authorised prosecutor. The examination can be extended for two months with the approval of the Prosecutor General. The examination should be finished with the conclusion of the prosecutor, informing the plaintiff on whether the violation of rights has been established and on the right to lodge an application before the court.<sup>31</sup> The afore-mentioned safeguards will be applicable to all types of investigatory operations, irrespective of their aim – either those conducted within the framework of law enforcement operations, or those conducted by the national intelligence agencies. The Prosecutor's Office shall be authorised to conduct an in-depth examination in response to the complaint lodged by the individual, to issue binding decisions upon the respective authorities and to initiate disciplinary and/or criminal proceedings in cases when serious violations have been found. However, the Prosecutor's Office has no authority to make compensatory awards. In order to obtain the compensatory remedy, the individual concerned shall have to lodge an application with the domestic courts, which on the basis of the materials at their disposal, including the conclusion of the Prosecutor's Office, shall decide on the matter.

Data protection authority in Latvia has no oversight of intelligence services.

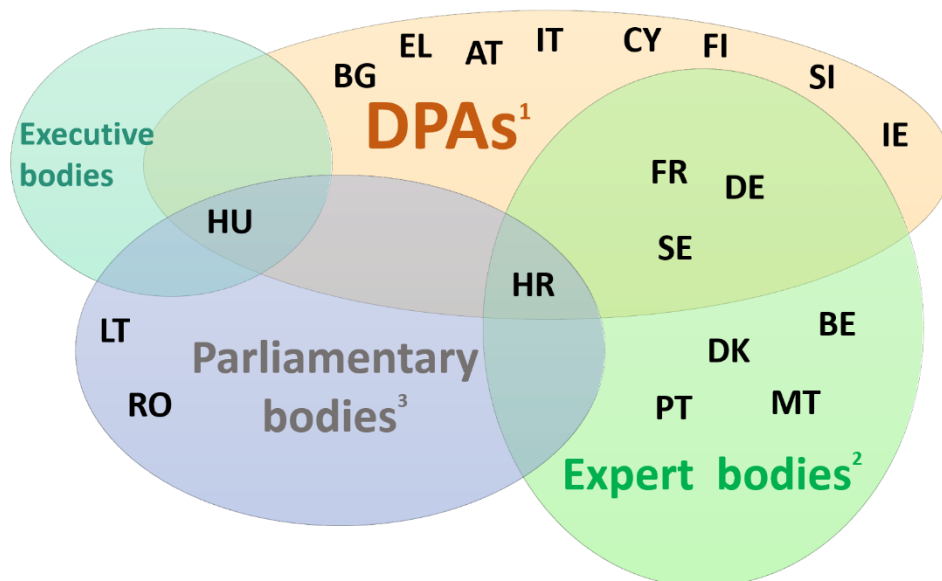
<sup>31</sup> Latvia, Amendments to the Investigatory Operations Law 10.03.2016



**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.*

The information for Latvia is accurate.





- 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.*