

# Short Thematic Report

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

Legal update

Country: LITHUANIA

Version of 1 July 2016

FRANET contractor:

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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 Lithuania that were channelled through the FRA National Liaison Officer.

# 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:

The period from the last trimester of 2014 to mid-2016 saw no fundamental legislative reforms of the legal framework concerning surveillance. The only change that is worth mentioning is the amendment of Article 13<sup>1</sup> of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>2</sup>. With the amendment of Article 13 the list of actions that may be carried out by intelligence services under a regional court's reasoned ruling is expanded.

Under Article 13 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*) a prior approval of a court was necessary for the following actions: monitoring and recording of the content of information transmitted by electronic communications networks, correspondence and other personal communications; entering a person's dwelling, other premises or vehicles, inspection and documenting thereof; seizure or covert inspection and registration of documents or items; obtaining of information on electronic communications events; monitoring and recording of funds, monetary flows, securities, electronic and other means of payment, also any other financial operations. The actions may not last longer than six months. When necessary, the time limit for carrying out these actions may be extended for up to three months, the number of extensions is not restricted by law.

Since 1 June 2015, the law, in addition, allows obtaining of information from financial companies and credit institutions, as well as from other legal persons about a natural or legal person's transactions, financial operations, the use of financial instruments and/or means of payment for the period prior to submitting the request for such information to a court. Other changes are related to the preconditions for accessing classified information in the exercise of functions. These changes have been made seeking to uniform the preconditions. Article 20 (2) of the law requires the persons exercising control of activities of intelligence institutions to hold authorisations to handle or familiarise themselves with the information comprising a state secret and classified as "Top Secret" as well as security clearances granting them the right to handle or familiarise themselves with the classified information released by foreign states or international organisations and assigned a classification equivalent to "Top Secret". On 19 May 2016, the law was amended by deleting the requirement of holding "security clearances granting the right to handle or familiarise with the

<sup>1</sup> Lithuania, Seimas (2015), Law Amending Articles 13 and 24 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymo 13 ir 24 straipsnių pakeitimo įstatymas*), No. XII-1683, 7 May 2015, available at: <https://www.e-tar.lt/portal/legalAct.html?documentId=c144bfa0fec811e488da8908dfa91cac>. All hyperlinks were last accessed on 9 June 2016.

<sup>2</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012 (as amended), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.

classified information released by foreign states or international organisations and assigned a classification equivalent to “Top Secret”, leaving only the general requirement of “holding authorisations to handle or familiarise with the information comprising a state secret and classified as ‘Top Secret’”<sup>3</sup>. Meeting the requirements set forth by legal acts necessary for the issuance of an authorisation to handle or familiarise oneself with classified information or a security clearance, where the position is related to handling of classified information, is a requirement for the persons being recruited for service (work) at an intelligence institution set forth in Article 32 (2) of the law. On 19 May 2016, the provision was amended by deleting “a security clearance” as an alternative<sup>4</sup>. The amendments will come into force on 1 October 2016<sup>5</sup>.

There were no special reports or inquiries by oversight bodies in relation to the Snowden revelations. There were no official announcements or other publically available information on the work of specific ad hoc parliamentary or non-parliamentary commission discussing the Snowden revelations either.

In 2015, there were two significant decisions of the Supreme Court of Lithuania (*Lietuvos Aukščiausiasis Teismas*) regarding the application of criminal intelligence measures. During the conversation by phone, the judge of the Supreme Court adjudicating criminal cases mentioned that, first of all, she is not aware of any judicial decision questioning the measures based on Article 13 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>6</sup>. The reason for absence of the judicial practice is the fact that if surveillance does not result in criminal charges, a person usually does not know about the fact that he/she has been under surveillance. Furthermore, the judge believes that the principles elaborated in the decisions regarding criminal intelligence may also be applied in the case of measures of intelligence<sup>7</sup>.

On 23 February 2015, the Supreme Court of Lithuania (*Lietuvos Aukščiausiasis Teismas*) emphasised that every judicial decision sanctioning the use of criminal surveillance has to indicate precise measures and actions that are being planned against a particular person in a particular place. Imprecision in the court’s decision may manifestly infringe a person’s human rights if the person’s private and public life is controlled to full extent<sup>8</sup>. On 1 June 2015, the plenary session of the Supreme Court

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<sup>3</sup> Lithuania, Seimas (2015), Law Amending Articles 20 and 32 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymo 20 ir 32 straipsnių pakeitimo įstatymas*), No. XII-2382, 19 May 2016, Art. 1, available at: <https://www.e-tar.lt/portal/lt/legalAct/9c1f1df028b711e6acf89da936cb7409>.

<sup>4</sup> Lithuania, Seimas (2015), Law Amending Articles 20 and 32 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymo 20 ir 32 straipsnių pakeitimo įstatymas*), No. XII-2382, 19 May 2016, Art. 2, available at: <https://www.e-tar.lt/portal/lt/legalAct/9c1f1df028b711e6acf89da936cb7409>.

<sup>5</sup> Lithuania, Seimas (2015), Law Amending Articles 20 and 32 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymo 20 ir 32 straipsnių pakeitimo įstatymas*), No. XII-2382, 19 May 2016, Art. 3, available at: <https://www.e-tar.lt/portal/lt/legalAct/9c1f1df028b711e6acf89da936cb7409>.

<sup>6</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012 (as amended), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.

<sup>7</sup> Verified during the conversation by phone with the judge of the Supreme Court on 6 June 2016.

<sup>8</sup> The Supreme Court of Lithuania (*Lietuvos Aukščiausiasis Teismas*), Case No. 2K-7-85-696/2016, available at: <http://eteismai.lt/byla/50136299086740/2K-7-85-696/2016?word=bk%20133>.

of Lithuania (*Lietuvos Aukščiausiasis Teismas*) ruled that the evidence of a crime committed by a person acquired by accident while performing sanctioned criminal intelligence activities against a third person may be used in the criminal investigation against the person who has not been under surveillance. However, the court should also evaluate whether the use of the data does not excessively (not keeping in line with the principle of proportionality) limit the right to privacy and whether there are other evidence to prove person's guilt<sup>9</sup>.

<sup>9</sup> The Supreme Court of Lithuania (*Lietuvos Aukščiausiasis Teismas*), Case No. 2K-P-94-895/2015, available at: <http://eteismai.lt/byla/44415389271611/2K-P-94-895/2015>.

## 1.2 International intelligence services cooperation

The legal basis enabling international cooperation between intelligence services is established in Article 9 (1) (5) of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>10</sup>, which allows cooperation between intelligence authorities, with a view to ensuring national security of the Republic of Lithuania, with intelligence and security institutions of foreign states, international organisations and institutions. These activities are coordinated by the State Defence Council (*Valstybės gynimo taryba*), which establishes guidelines for international cooperation of intelligence institutions with intelligence and security institutions of foreign states, international organisations and institutions. The guidelines are not publicly available.

Article 9 (2) (2) of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*) obliges intelligence institutions to notify in writing the state institutions to which intelligence institutions are accountable (to the Seimas of the Republic of Lithuania and the President of the Republic) of the activities carried out by the intelligence institutions and cooperation with foreign intelligence and security institutions, international organisations and institutions. The notifications to the oversight bodies are strictly confidential. The oversight system with regard to international cooperation is similar as for any other activity of the national intelligence services. The State Defence Council (*Valstybės gynimo taryba*) performs the role of coordinator of intelligence institutions activities and is in charge of ensuring the strategic guidance of intelligence services<sup>11</sup>. The State Security Department (*Valstybės saugumo departamentas*) reports on the activities carried out by the intelligence institution to the State Defence Council (*Valstybės gynimo taryba*)<sup>12</sup>, as well to the institutions to which intelligence institutions are accountable (to the Seimas of the Republic of Lithuania and the President of the Republic).

Under Article 18 (3) of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>13</sup>, intelligence institutions have the right to provide intelligence information upon individual request to international organisations and institutions and competent authorities of foreign states, where the possibility of provision of such information is provided for in international treaties or agreements. The State Security Department (*Valstybės saugumo departamentas*) explains that to this end the intelligence authorities conclude interdepartmental agreements that are confidential and not accessible to the public. These interdepartmental agreements are

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<sup>10</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.435651?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>11</sup> Lithuania, Seimas (1997), Law on the State Defence Council of the Republic of Lithuania (*Lietuvos Respublikos valstybės gynimo tarybos įstatymas*), No. VIII-209, 30 April 1997, as amended, Art. 4 (1), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.38353/tFCCcCMzjU>.

<sup>12</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, Art. 20 (1), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.435651?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>13</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.435651?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

based on existing bilateral international treaties on mutual assistance in criminal cases (e.g. International treaty between the Government of the Republic of Lithuania and the Government of the United States of America on mutual assistance in criminal cases that came into force on 26 August 1999<sup>14</sup>). The State Security Department (*Valstybės saugumo departamentas*) has confirmed that they have an interdepartmental agreement concluded between the intelligence authorities of the Republic of Lithuania and the United States of America and also mentioned that more detailed information on existing bilateral agreements can only be provided using established communication channels between the institutions<sup>15</sup>.

Decisions on provision of intelligence information upon individual requests or refusal to provide it is taken by the Director of the State Security Department (*Valstybės saugumo departamentas*) or the persons authorised by it (Article 18 (4) of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*))<sup>16</sup>. A request for intelligence information is refused where the provision of intelligence information to an international organisation and institution or a competent authority of a foreign state may threaten national security or foreign policy interests (Art. 18 (5) (2) of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*))<sup>17</sup>.

### 1.3 Access to information and surveillance

General statistics about the use of surveillance measures against individuals are made public in the annual report of the State Security Department (*Valstybės saugumo departamentas*). In the report on its activities in 2015, the State Security Department (*Valstybės saugumo departamentas*) indicates that in 2015 the department carried out intelligence activities sanctioned by court directed against 1,953 persons (1,017 were Lithuanian nationals)<sup>18</sup>. However, in practice these individuals are neither informed, nor have access to the data collected on them. The Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*) does not contain any specific provisions governing the right of persons concerned to access gathered

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<sup>14</sup> Lithuania, Seimas (1998), Law of the Republic of Lithuania on Ratification of International Treaty between the Government of the Republic of Lithuania and the Government of the United States of America on Mutual Assistance in Criminal Cases (*Lietuvos Respublikos Vyriausybės ir Jungtinių Amerikos Valstijų Vyriausybės sutarties dėl savitarpio teisinės pagalbos baudžiamosiose bylose ratifikavimo įstatymas*), No. VIII-779, 17 June 1998, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.58416?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>15</sup> Verified during the conversation by phone with the lawyer at the State Security Department (*Valstybės saugumo departamentas*) on 3 June 2016.

<sup>16</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.435651?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>17</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.435651?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>18</sup> Lithuania, State Security Department (*Valstybės saugumo departamentas*) (2016), '2015 m. veiklos ataskaita', 10 May 2016, available at: <http://www.vsd.lt/Files/Documents/635948636434075000.pdf>.

intelligence data, even if the rights of persons have been violated in the course of the surveillance and the information gathered does not indicate that a crime has been committed. In practice people get to know that the surveillance was carried out when they applied to a certain position (e.g. the position of a vice-minister) and were rejected due to a negative finding released by the State Security Department (*Valstybės saugumo departamentas*).

#### **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](#).

### **Introduction**

## **1 Intelligence services and surveillance laws**

### **1.1 Intelligence services**

There have been no developments over the reporting period in this regard.

### **1.2 Surveillance measures**

There have been no known developments over the reporting period in this regard.

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

The information is correct. There have been no further developments over the reporting period to complement FRA comparative analysis.

### **FRA key findings**

The key findings cover Lithuanian legal framework and practice.

## **2 Oversight of intelligence services**

*Update of the data.*

In Lithuania, any intelligence official may address the Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*), which is executing parliamentary control over intelligence institutions<sup>19</sup>.

### **2.1 Executive control**

Additional information.

In Lithuania, the State Defence Council (*Valstybės gynimo taryba*), chaired by the President of the Republic, is in charge of ensuring the strategic guidance of both civil and military intelligence services. The Council comprises the President of Lithuania,

<sup>19</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, Art. 21 (5), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.

the Prime Minister, the Speaker of the Parliament (*Seimas*), the Minister of National Defence (*Krašto apsaugos ministras*) and the Commander of the Armed Forces<sup>20</sup>.

## 2.2 Parliamentary oversight

### i. Mandate

#### *Clarification*

The powers of the Lithuanian Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) are not established in one single legal act (its statute or regulation), thus the extent of its mandate is rather confusing. It is worth clarifying that the Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) may receive complaints from the public; however, it does not have a mandate to come up with the decisions oriented towards complaining individuals. Upon completion of investigation, the committee may suggest to improve the legislative framework or practice; however, in its decision the committee cannot address an individual situation of the individual who has complained (no decision regarding individual situation can be adopted). There are no official data on the number of the complaints received and dealt with. This has been confirmed during the conversation by phone with the representative of the committee on 10 May 2016.

Furthermore, the statement “Without access to classified documents, oversight bodies rely on the data provided to them by the executive or the services themselves” does not logically follow from the example about the Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) (p. 37, footnote No. 240) as the Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) has the right to access all classified documents that are necessary for investigation.

### 2.2.2 Composition

The information is correct. There have been no developments over the reporting period in this regard.

### 2.2.3 Access to information and documents

The Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) has access to all information, regardless of its level of classification, which it deems to be relevant for investigation entrusted to be conducted by the Parliament (*Seimas*). The right to access classified information is not clearly expressed neither in Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), nor in the Statute of the Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimo statutas*). This right follows from the obligation to have the right to work with classified information for all the members of the Committee<sup>21</sup>.

<sup>20</sup> Lithuania, Seimas (1997), Law on the State Defence Council of the Republic of Lithuania (*Lietuvos Respublikos valstybės gynimo tarybos įstatymas*), No. VIII-209, 30 April 1997, as amended, Art. 2, 4, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.38353/tFCCcCMzjU>.

<sup>21</sup> Lithuania, Seimas (1998), Statute of the Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimo statutas*), No. VIII-1000, 22 December 1998, as amended, Art. 44 (7), available at: <https://e->



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

There is no obligation established in the law to provide annual reports to the Parliament. The Statute of the Parliament (*Seimo statutas*)<sup>22</sup> stipulates that the Parliament may request parliamentary committees to provide reports. The representative of the Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) explained during the conversation by phone on 10 May 2016 that in practice the reporting of the committee to the Parliament means providing by the end of the session the list of proposals to improve the legal framework and the list of the investigations conducted.

### **2.3 Expert oversight**

#### **2.3.1 Specialised expert bodies**

Lithuania has not set up expert bodies exclusively dedicated to intelligence service oversight.

#### **2.3.2 Data protection authorities**

The information is correct. There have been no developments over the reporting period in this regard.

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

Article 13 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>23</sup> prescribes which actions require the approval of a regional court. It includes: 1) monitoring and recording of the content of information transmitted by electronic communications networks, correspondence and other personal communications; 2) entering a person's dwelling, other premises or vehicles, inspection and documenting thereof; 3) seizure or covert inspection and registration of documents or items; 4) obtaining of information on electronic communications events; 5) monitoring and recording of funds, monetary flows, securities, electronic and other means of payment, also any other financial operations; 6) obtaining of information from financial companies and credit institutions, as well as from other legal persons about a natural or legal person's financial operations, the use of financial instruments and/or means of payment for the period prior to submitting the request for such information to a court.

The amendment of Article 13 of the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*) by including paragraph 6 is the only amendment relating to the approval and review of surveillance measures that was made in the reporting period. The access to electronic communications traffic data is subject to this approval and falls within paragraph 1.

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[seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.70489?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78](https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.70489?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78).

<sup>22</sup> Lithuania, Seimas (1998), Statute of the Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimo statutas*), No. VIII-1000, 22 December 1998, as amended, Art. 48 (2), available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.70489?positionInSearchResults=0&searchModelUUID=25bcdfc2-b8be-4e81-8991-185fe08c5d78>.

<sup>23</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.

## FRA key findings

The key findings cover Lithuanian legal framework and practice.

### 3 Remedies

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

The information is correct. There were no developments over the reporting period in this regard.

Article 23 (1) of the Law on Legal Protection of Personal Data (*Asmens duomenų teisinės apsaugos įstatymas*)<sup>24</sup> lists the rights of the data subject. The provision stipulates that the following rights are granted: to know (be informed) about the processing of his/her personal data; to have an access to his/her personal data and to be informed of how they are processed; to request rectification or destruction of his/her personal data or suspension of further processing of his/her personal data, with the exception of storage, where the data are processed in violation of the provisions of the law and other laws; to object against the processing of his/her personal data. However, Article 23 (2) of the law lists exceptions when the data controller must not provide the data subject with the conditions for exercising these rights, one of them being “security or defence of the State” (Article 23 (2) (1) of the law). The State Data Protection Inspectorate (*Valstybinė duomenų apsaugos inspekcija*) has confirmed that the institutions in general tend to use the exceptions provided for in Article 23 (2) of the Law on Legal Protection of Personal Data (*Asmens duomenų teisinės apsaugos įstatymas*)<sup>25</sup>. They have also noted that so far there have not been any individual addressing the inspectorate with complaints regarding the access to the information gathered in the course of intelligence activities<sup>26</sup>.

#### 3.2 Judicial remedies

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

All analysed judicial decisions over the reporting period concern the application of the Law on Criminal Intelligence of the Republic of Lithuania (*Lietuvos Respublikos kriminalinės žvalgybos įstatymas*)<sup>27</sup>, not the Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*)<sup>28</sup>.

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<sup>24</sup> Lithuania, Seimas (1996), Law on Legal Protection of Personal Data of the Republic of Lithuania (*Lietuvos Respublikos asmens duomenų teisinės apsaugos įstatymas*), No. I-1374, 11 June 1996, as amended, available in English at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=435305](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=435305).

<sup>25</sup> Lithuania, Seimas (1996), Law on Legal Protection of Personal Data of the Republic of Lithuania (*Lietuvos Respublikos asmens duomenų teisinės apsaugos įstatymas*), No. I-1374, 11 June 1996, as amended, available in English at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=435305](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=435305).

<sup>26</sup> Verified during the conversation by phone with the representative of the State Data Protection Inspectorate (*Valstybinė duomenų apsaugos inspekcija*) on 6 June 2016.

<sup>27</sup> Lithuania, Seimas (2012), Law on Criminal Intelligence of the Republic of Lithuania (*Lietuvos Respublikos kriminalinės žvalgybos įstatymas*), No. XI-2234, 2 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.434526/HrxIFeskcg>.

<sup>28</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.

### 3.2.2 Specialised judges and quasi-judicial tribunals

There were no developments over the reporting period in this regard.

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

### 3.3.1 Types of non-judicial bodies

The information is correct. There were no developments over the reporting period in this regard.

### 3.3.2 The issue of independence

The information is correct. There were no developments over the reporting period in this regard.

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

The information is correct. There were no developments over the reporting period in this regard.

## FRA key findings

The key findings cover Lithuanian legal framework and practice.

## Conclusions

The key conclusions cover Lithuanian legal framework and practice.

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

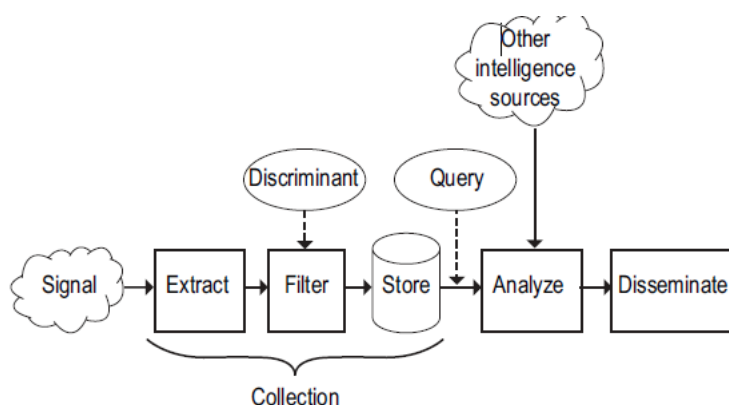
### 1.5.1 Overview of security and intelligence services in the EU-28

The information is accurate. There were no developments over the reporting period in this regard.

	Civil (internal)	Civil (external)	Civil (internal and external)	Military
LT			State Security Department / <i>Valstybės saugumo departamentas</i> (VSD)	Second Investigation Department under the Ministry of National Defence / <i>Antrasis operatyvinių tarnybų departamentas prie Krašto apsaugos ministerijos</i> (AOTD prie KAM)

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

The representative of the State Security Department (*Valstybės saugumo departamentas*) confirmed that the figure represents the conceptual model of signals intelligence in Lithuania<sup>29</sup>. However, he emphasised that he cannot give any further details regarding the model.

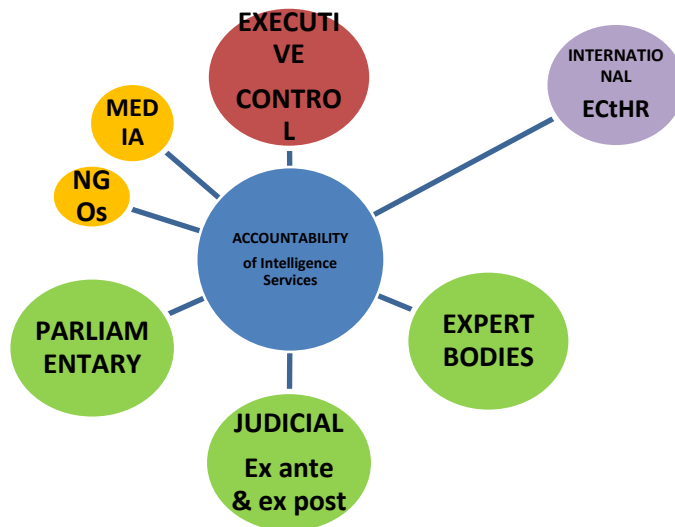


### 1.5.3 Figure 2: Intelligence services' accountability mechanisms

Human Rights Committee might be mentioned among international bodies in general as the General Comment on Article 17<sup>30</sup> guides all the states parties to the International Convention on Civil and Political Rights (ICCPR). There have not been any individual claims regarding intelligence services submitted against Lithuania so far. As to the figure, there is no accountability to the expert bodies in Lithuania.

<sup>29</sup> Verified during the conversation with the representative of the State Security Department (*Valstybės saugumo departamentas*) on 3 June 2016.

<sup>30</sup> General Comment No. 16 - Article 17 (The right to respect of privacy, family, home and correspondence, and protection of honour and reputation), 28 Sep 1988.

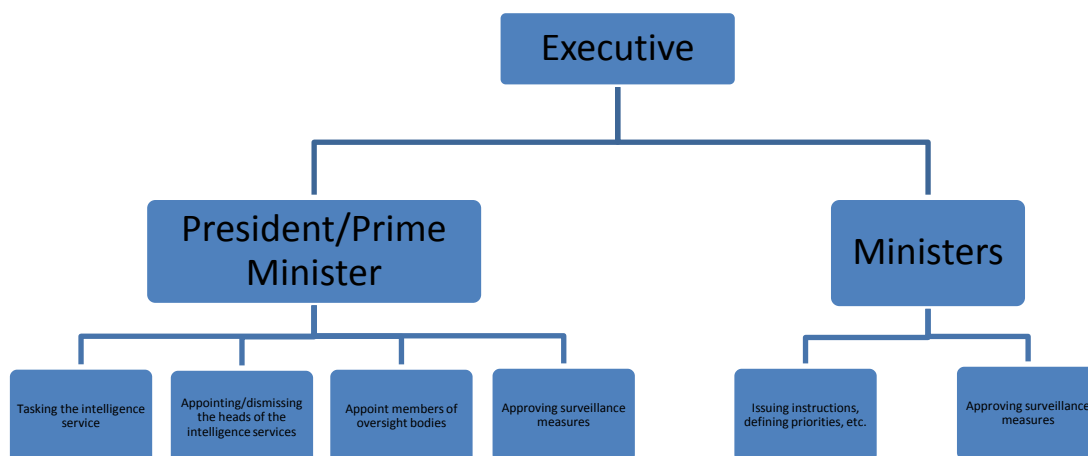


**1.5.4 Figure 3: Forms of control over the intelligence services by the executive across the EU-28**

The Parliamentary Committee on National Security and Defence (*Seimo Nacionalinio saugumo ir gynybos komitetas*) is made up of the Parliament itself, not of the President or Prime Minister. The Director of the State Security Department (*Valstybės saugumo departamentas*) is appointed/dismissed by the President of the Republic. In Lithuania, the State Defence Council (*Valstybės gynimo taryba*), chaired by the President of the Republic, is in charge of ensuring the strategic guidance and setting the priorities of the intelligence services. The council is composed of the heads representing executive and legislative powers and comprises the President of the Republic, the Prime Minister, the Speaker of the Parliament, the Minister of National Defence (*Krašto apsaugos ministras*) and the Commander of the Armed Forces<sup>31</sup>. The surveillance methods are approved by the Government<sup>32</sup>.

<sup>31</sup> Lithuania, Seimas (1997), Law on the State Defence Council of the Republic of Lithuania (*Lietuvos Respublikos valstybės gynimo tarybos įstatymas*), No. VIII-209, 30 April 1997, as amended, Art. 2, 4, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.38353/tFCCcCMzjU>.

<sup>32</sup> Lithuania, Seimas (2012), Law on Intelligence of the Republic of Lithuania (*Lietuvos Respublikos žvalgybos įstatymas*), No. XI-2289, 17 October 2012, as amended, Art. 12, available at: <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.106097/FYHcBALWYG>.



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

*The data are accurate.*

Member States	Essential powers	Enhanced powers
LT	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

*The data are accurate.*

EU Member State	Expert Bodies
LT	N.A.

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

*The data are accurate.*

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

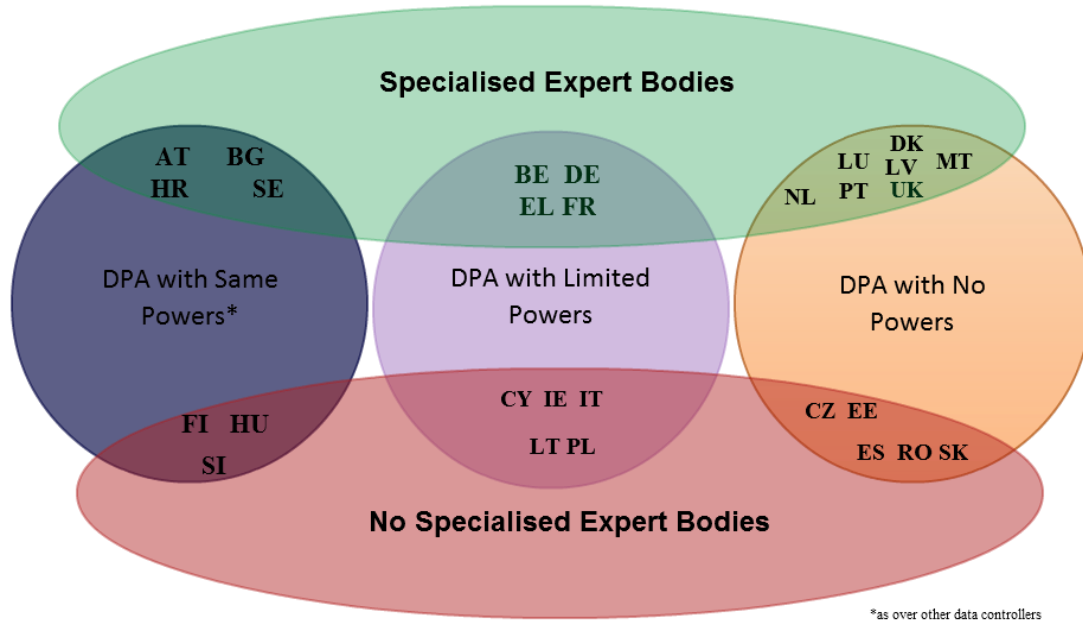
*Notes:* No powers: refers to DPAs that have no competence to supervise NIS.

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**

The data are accurate.



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

The data are accurate.

EU Member State	Judicial	Parliamentary	Executive	Expert bodies	None
LT	X				

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

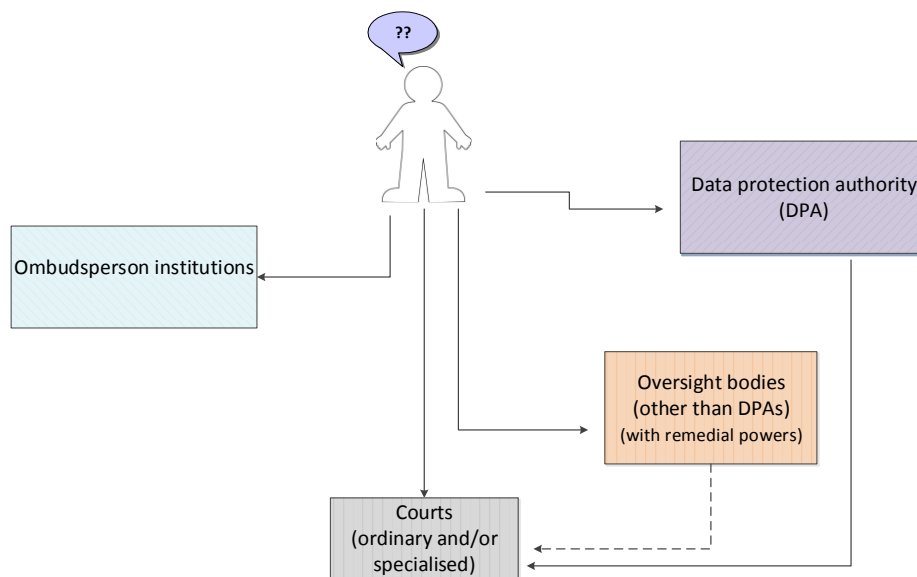
Please check the accuracy of Table 5 below (p. 55 of the FRA Report). In case of inaccuracy, please suggest any amendment(s) as appropriate and substantiate it/them with specific reference to the legal framework.

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

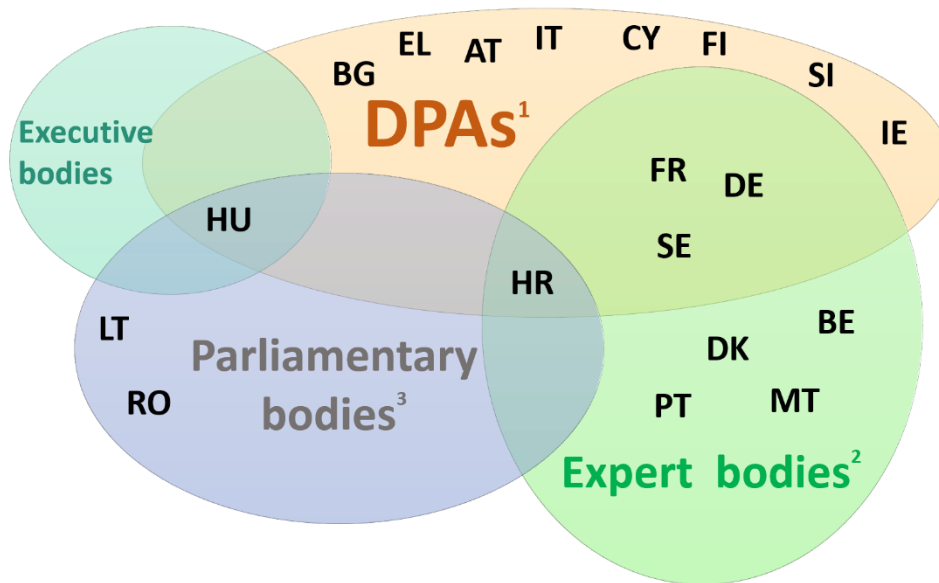
Parliamentary oversight bodies in Lithuania do not have remedial powers; however, individuals can address them with their complaints.



### 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

Parliamentary oversight bodies in Lithuania do not have remedial powers; however, individuals can address them with their complaints. In its decision the committee cannot address an individual situation of the person who complains (no decision regarding individual situation can be adopted). The person can address the committee; however, the Committee will not address the person's situation even with a non-binding decision.





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.