

# Intelligence Law and Policies in Europe

Dietrich / Sule

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Intelligence Law and Policies in Europe



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# Intelligence Law and Policies in Europe

A Handbook

edited by

Jan-Hendrik Dietrich

Satish Sule

  
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2019



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## Preface

Intelligence Cooperation in Europe is of fundamental and growing importance in view of the various common risks and threats that the European continent and the EU, in particular, are facing. They range from threats by terrorists as well as organised crime, to espionage, sabotage and cyber-attacks by third parties and countries. Most of the latter aim at undermining the democratic systems and shared values of European societies, the European Union and its Member States.

Furthermore, the Common Foreign and Security political approach of the European Union requires a functioning cooperation between European intelligence agencies. At the same time – particularly following the Snowden revelations – European citizens expect intelligence activities to be in line with values of democracy, the rule of law and human rights.

So far, there existed no extensive, deep analysis of intelligence work encompassing Europe under these aspects. This book aims to close this gap and offer a solid background for further objective, cross border European discussions. It takes into account the various facets of intelligence activities in Europe in a problem- and task-oriented way. It, thus, spans from general operational chapters on intelligence operations to intelligence cooperation within different policies in Europe, inside the EU but also on a bigger scale (e.g. NATO), to its legal frameworks including its organisational limits as well as those drawn by competence rules and fundamental rights and to expositions of the structures of several selected national intelligence communities.

We have been fortunate to win a number of eminent experts from relevant administrations, academia and civil society as authors for different chapters of our book. We are very grateful for their preparedness to take on the research for and drafting of chapters in their field of expertise.

European citizens may expect intelligence services of Europe – and particularly within the European Union – to cooperate as much as possible and necessary, in order to counter threats that are becoming increasingly difficult to tackle for each state on her own. It would contribute to jointly defend our democracies, the rule of law and fundamental rights as achievements on which Europe is built. Hence, we submit that European intelligence plays a substantial role.

Sincere thanks are due to Dr. Wolfgang Czerny of C.H. Beck Publishers, without whose help and patience the project would not have been completed.

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*Jan-Hendrik Dietrich  
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*November 2018*



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## Abbreviations and Acronyms

|                |                                                                                                   |
|----------------|---------------------------------------------------------------------------------------------------|
| ACH .....      | Alternative competing hypothesis                                                                  |
| AD .....       | Anno Domini                                                                                       |
| ADDNI .....    | Assistant deputy director of national intelligence                                                |
| AFSJ .....     | Area of Freedom, Security and Justice                                                             |
| AGI .....      | Advanced geospatial intelligence                                                                  |
| AIPAC .....    | American Israel Public Affairs Committee                                                          |
| Aman .....     | Agaf ha-Modi'in (Directorate of Military Intelligence, Israel)                                    |
| AOR .....      | Area of responsibility                                                                            |
| ARA .....      | Annual Risk Assessment                                                                            |
| ARC .....      | Analytic Resources Catalog                                                                        |
| ATSA .....     | Aviation and Transportation Security Act                                                          |
| AWF .....      | Analysis Work File                                                                                |
| BC .....       | Before Christ                                                                                     |
| BfV .....      | Bundesamt fuer Verfassungsschutz (Federal Office for the Protection of the Constitution, Germany) |
| BND .....      | Bundesnachrichtendienst (Federal Intelligence Service, Germany)                                   |
| BoF .....      | Bits of Freedom                                                                                   |
| BRIXMIS .....  | British Commander-In-Chief 's Mission to the Soviet Forces in Germany                             |
| BW .....       | Biological weapons                                                                                |
| CBRN .....     | Chemical, biological, radiological and nuclear                                                    |
| CBW .....      | Chemical and biological weapons                                                                   |
| CCA .....      | Crisis Coordination Arrangements                                                                  |
| CCP .....      | Consolidated Cryptographic Program                                                                |
| CDA .....      | Congressionally directed action                                                                   |
| CEO .....      | Chief executive officer                                                                           |
| Cfsp .....     | Common Foreign and Security Policy                                                                |
| CI .....       | Counterintelligence                                                                               |
| CIA .....      | Central Intelligence Agency                                                                       |
| CIARDS .....   | CIA Retirement and Disability System                                                              |
| CIG .....      | Central Intelligence Group                                                                        |
| CIRAM .....    | Common Integrated Risk Analysis Model                                                             |
| CIS .....      | Custom Information System                                                                         |
| CJEU .....     | Court of Justice of the European Union                                                            |
| CMA .....      | Community Management Account                                                                      |
| CMC .....      | Central Military Commission (China)                                                               |
| CMS .....      | Case management system                                                                            |
| CNA .....      | Computer network attack                                                                           |
| CNE .....      | Computer network exploitation                                                                     |
| COI .....      | Coordinator of information                                                                        |
| COMINT .....   | Communications intelligence                                                                       |
| COO .....      | Chief operating officer                                                                           |
| CoOL .....     | Consular Online                                                                                   |
| COREPER .....  | Committee of Permanent Representatives                                                            |
| COREU .....    | Correspondence Européenne                                                                         |
| COS .....      | Chief of station                                                                                  |
| COSI .....     | Standing Committee on Operational Cooperation on Internal Security                                |
| COSPOL .....   | Comprehensive Operational Strategic Planning for the Police                                       |
| CPC .....      | Central Point of Contact                                                                          |
| CRS .....      | Congressional Research Service                                                                    |
| CRS .....      | Crisis Response System                                                                            |
| CSDP .....     | Common Security and Defence Policy                                                                |
| CSIS .....     | Canada's Security Intelligence Service (Canada)                                                   |
| CSRS .....     | Counter Surveillance Reconnaissance System                                                        |
| CW .....       | Chemical weapons                                                                                  |
| CYBERINT ..... | Cyber intelligence                                                                                |
| D&D .....      | Denial and deception                                                                              |

## *Abbreviations and Acronyms*

|                 |                                                                                                                                  |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------|
| DARP .....      | Defence Airborne Reconnaissance Program                                                                                          |
| DC .....        | Deputies Committee (NSC)                                                                                                         |
| DCI .....       | Director of central intelligence                                                                                                 |
| DCIA .....      | Director of the Central Intelligence Agency                                                                                      |
| DCP .....       | Defence Cryptologic Program                                                                                                      |
| DDNI .....      | Deputy director of national intelligence                                                                                         |
| DEFCON .....    | Defence Condition                                                                                                                |
| DG .....        | Directorate-General                                                                                                              |
| DGIAP .....     | Defense General Intelligence and Applications Program                                                                            |
| DGSE .....      | Direction Générale de la Sécurité Extérieure, French Foreign Intelligence Service                                                |
| DHI .....       | Defense human intelligence                                                                                                       |
| DHS .....       | Department of Homeland Security                                                                                                  |
| DI .....        | Directorate of Intelligence                                                                                                      |
| DIA .....       | Defense Intelligence Agency                                                                                                      |
| DICP .....      | Defense Intelligence Counterdrug Program                                                                                         |
| DIS .....       | Defence Intelligence Staff (Britain)                                                                                             |
| DISTP .....     | Defense Intelligence Special Technologies Program                                                                                |
| DITP .....      | Defense Intelligence Tactical Program                                                                                            |
| DNI .....       | Director of national intelligence                                                                                                |
| DO .....        | Directorate of Operations (CIA)                                                                                                  |
| DOD .....       | Department of Defense                                                                                                            |
| DOE .....       | Department of Energy                                                                                                             |
| DPSD .....      | Directoire de la Protection et de la Sécurité de la Défense (Directorate for Defense Protection and Security, France)            |
| DRM .....       | Directoire du Renseignement Militaire (Directorate of Military Intelligence, France)                                             |
| DS&T .....      | Directorate of Science and Technology (CIA)                                                                                      |
| DST .....       | Direction de la surveillance du territoire (Directorate of Territorial Surveillance, France)                                     |
| EC .....        | European Community                                                                                                               |
| EC3 .....       | European Cybercrime Centre                                                                                                       |
| ECHO .....      | European Community Humanitarian Office                                                                                           |
| ECHR .....      | European Convention on Human Rights                                                                                              |
| ECIM .....      | European Criminal Intelligence Model                                                                                             |
| ETC .....       | European Counter Terrorism Center                                                                                                |
| ECtHR .....     | European Court of Human Rights                                                                                                   |
| EDA .....       | European Defence Agency                                                                                                          |
| EDSP .....      | European Defense and Security Policy                                                                                             |
| EEAS .....      | European External Action Service                                                                                                 |
| EEC .....       | European Economic Community                                                                                                      |
| EIN .....       | European Intelligence Communication Network                                                                                      |
| EJN .....       | European Judicial Network                                                                                                        |
| ELINT .....     | Electronic intelligence                                                                                                          |
| ENISA .....     | European Union Agency for Network and Information Security                                                                       |
| EO .....        | Electro-optical; Executive order                                                                                                 |
| EOD .....       | Entry on duty                                                                                                                    |
| EPC .....       | European Political Cooperation                                                                                                   |
| ESDP .....      | European Security and Defence Policy                                                                                             |
| ESS .....       | European Security Strategy                                                                                                       |
| ETA .....       | Euskadi Ta Askatasuna (Basque terrorist organisation)                                                                            |
| EU INTCEN ..... | European Union Intelligence and Situation Centre                                                                                 |
| EU SITCEN ..... | European Union Situation Centre                                                                                                  |
| EU .....        | European Union                                                                                                                   |
| EUMS INT .....  | Intelligence Directorate of the EU Military Staff                                                                                |
| EUMS .....      | European Union Military Staff                                                                                                    |
| EUROPOL .....   | European Agency for Law Enforcement Cooperation                                                                                  |
| EUROSUR .....   | European Border Surveillance System                                                                                              |
| EUSR .....      | European Union Special Representative                                                                                            |
| EXCOM .....     | Executive Committee                                                                                                              |
| FAPSI .....     | Federalnoe Agenstvo Pravitel'svennoi Svyazi i Informatsii (Federal Agency for Government Communications and Information, Russia) |
| FASP .....      | Foreign affairs and security policy                                                                                              |

## *Abbreviations and Acronyms*

|               |                                                                                   |
|---------------|-----------------------------------------------------------------------------------|
| FBIS .....    | Foreign Broadcast Information Service                                             |
| FCIP .....    | Foreign Counterintelligence Program (DOD)                                         |
| FIA .....     | Future Imagery Architecture                                                       |
| FIPR .....    | Foundation for Information Policy Research                                        |
| FISA .....    | Foreign Intelligence Surveillance Act                                             |
| FISINT .....  | Foreign instrumentation intelligence                                              |
| FRAN .....    | Frontex Risk Analysis Network                                                     |
| Frontex ..... | Frontières extérieures (European Border and Coast Guard Agency)                   |
| FSB .....     | Federal'naya Sluzba Besnопасnoti (Federal Security Service, Russia)               |
| FSJ .....     | Freedom, security and justice                                                     |
| GAO .....     | Government Accountability Office                                                  |
| GCHQ .....    | Government Communications Headquarters (Great Britain)                            |
| GDIP .....    | General Defense Intelligence Program                                              |
| GDP .....     | Gross domestic product                                                            |
| GDR .....     | German Democratic Republic                                                        |
| GEOINT .....  | geospatial intelligence                                                           |
| GESTAPO ..... | Geheime Staatspolizei (Secret State Police, Nazi Germany)                         |
| GMES .....    | Global Monitoring for Environment and Security                                    |
| GNP .....     | Gross national product                                                            |
| GRU .....     | Glavnoye Razvedyvatel'noye Upravleniye (Main Intelligence Directorate, Russia)    |
| GSC .....     | General Secretariat of the Council                                                |
| HCLU .....    | Hungarian Civil Liberties Union                                                   |
| HSC .....     | Homeland Security Council                                                         |
| HSINT .....   | Homeland security intelligence                                                    |
| HUMINT .....  | Human intelligence                                                                |
| I&W .....     | Indications and warning                                                           |
| IAEA .....    | International Agency for Atomic Energy                                            |
| IGO .....     | Intergovernmental Organisation                                                    |
| IMINT .....   | Imagery intelligence                                                              |
| INR .....     | Bureau of Intelligence and Research (Department of State)                         |
| INTCEN .....  | Intelligence Analysis Centre                                                      |
| INTDIV .....  | Intelligence Division of the European Union Staff                                 |
| INTs .....    | Collection disciplines (HUMINT, IMINT, MASINT, OSINT, SIGINT)                     |
| IPCR .....    | Integrated Political Crisis Response                                              |
| IRA .....     | Irish Republican Army                                                             |
| IRTPA .....   | Intelligence Reform and Terrorism Prevention Act                                  |
| ISAA .....    | Integrated Situational Awareness and Analysis                                     |
| ISB .....     | Intelligence Steering Board                                                       |
| ISG .....     | Iraq Survey Group                                                                 |
| ISR .....     | Intelligence, surveillance, and reconnaissance                                    |
| ISS .....     | Internal Security Strategy                                                        |
| ISTAR .....   | Intelligence, surveillance, target acquisition and reconnaissance                 |
| IT .....      | Information technology                                                            |
| IWG .....     | Intelligence Working Group                                                        |
| JCS .....     | Joint Chiefs of Staff                                                             |
| JHA .....     | Justice and home affairs                                                          |
| JIC .....     | Joint Intelligence Committee (Britain)                                            |
| JICC .....    | Joint Intelligence Community Council                                              |
| JIOC .....    | Joint intelligence operations center                                              |
| JMIP .....    | Joint Military Intelligence Program                                               |
| JTAC .....    | Joint Terrorism Analysis Center (Britain)                                         |
| JTTF .....    | Joint Terrorism Task Force                                                        |
| KGB .....     | Komitet Gosudarstvennoi Bezopasnosti (Committee for State Security, Soviet Union) |
| KJs .....     | Key Judgments                                                                     |
| LIBE .....    | Committee on Civil Liberties, Justice and Home Affairs                            |
| LQDN .....    | La Quadrature du Net                                                              |
| MASINT .....  | Measurement and signatures intelligence                                           |
| MD .....      | VII Department for Crisis Response and Operational Coordination                   |
| MEP .....     | Member of European Parliament                                                     |
| MI5 .....     | Military Intelligence Section 5 (Security Service, Great Britain)                 |
| MI6 .....     | Military Intelligence Section 6 (Secret Intelligence Service, Great Britain)      |
| MIC .....     | Monitoring and Information Centre                                                 |

## *Abbreviations and Acronyms*

|               |                                                                                                   |
|---------------|---------------------------------------------------------------------------------------------------|
| MIP .....     | Military intelligence program                                                                     |
| MMT .....     | Mission monitoring team                                                                           |
| Mossad .....  | Ha-Mossad Le-Modin Ule Tafkaidim Meyuhadim (Institute for Intelligence and Special Tasks, Israel) |
| MS .....      | Member State                                                                                      |
| NAC .....     | North Atlantic Council                                                                            |
| NATO .....    | North Atlantic Treaty Organisation                                                                |
| NCC .....     | National Coordination Centre                                                                      |
| NCIX .....    | National Counterintelligence Executive                                                            |
| NCPC .....    | National Counterproliferation Center                                                              |
| NCS .....     | National Clandestine Service                                                                      |
| NCTC .....    | National Counterterrorism Center                                                                  |
| NFIP .....    | National Foreign Intelligence Program                                                             |
| NGA .....     | National Geospatial-Intelligence Agency                                                           |
| NGO .....     | Non-Governmental Organisation                                                                     |
| NHAI .....    | National High Authority of Intelligence                                                           |
| NIC .....     | National Intelligence Cell; National Intelligence Council                                         |
| NIE .....     | National intelligence estimate                                                                    |
| NILO .....    | National Intelligence Liaison Officer                                                             |
| NIM .....     | National Intelligence Manager                                                                     |
| NIMA .....    | National Imagery and Mapping Agency                                                               |
| NIO .....     | National intelligence officer                                                                     |
| NIP .....     | National Intelligence Program                                                                     |
| NIPF .....    | National Intelligence Priorities Framework                                                        |
| NKVD .....    | People's Commissariat for Internal Affairs                                                        |
| NOC .....     | Nonofficial cover                                                                                 |
| NRO .....     | National Reconnaissance Office                                                                    |
| NRP .....     | National Reconnaissance Program                                                                   |
| NSA .....     | National Security Agency                                                                          |
| NSC .....     | National Security Council                                                                         |
| NSL .....     | National security letters                                                                         |
| NSPD .....    | National security policy directive                                                                |
| NTA .....     | New Transatlantic Agenda                                                                          |
| NTM .....     | National technical means                                                                          |
| OCTA .....    | Organised Crime Threat Assessment                                                                 |
| ODNI .....    | Office of the Director of National Intelligence                                                   |
| OLAF .....    | European Anti-Fraud Office                                                                        |
| OPHQ .....    | Operational Headquarters                                                                          |
| OPS WAN ..... | Operations Wide Area Network                                                                      |
| ORCON .....   | Origination controlled                                                                            |
| OSC .....     | Open Source Center                                                                                |
| OSCE .....    | Organisation for Security and Co-operation in Europe                                              |
| OSD .....     | Office of the Secretary of Defense                                                                |
| OSINT .....   | Open-source intelligence                                                                          |
| OSS .....     | Office of Strategic Services                                                                      |
| P&E .....     | Processing and exploitation                                                                       |
| PC .....      | Principals Committee (NSC)                                                                        |
| PDB .....     | President's daily brief                                                                           |
| PFIAB .....   | President's Foreign Intelligence Advisory Board                                                   |
| PHOTINT ..... | Photo intelligence                                                                                |
| PIAB .....    | President's Intelligence Advisory Board                                                           |
| PIOB .....    | President's Intelligence Oversight Board                                                          |
| PIR .....     | Prioritised intelligence requirements                                                             |
| PLO .....     | Palestine Liberation Organization                                                                 |
| PNR .....     | Passenger name record                                                                             |
| PPWU .....    | Policy Planning and Early Warning Unit                                                            |
| PROTINT ..... | Protected information intelligence                                                                |
| PSC .....     | Political and Security Committee                                                                  |
| QFR .....     | Question for the record                                                                           |
| RAU .....     | Risk Analysis Unit                                                                                |
| RELEX .....   | External Relations                                                                                |
| RESINT .....  | Research-originating intelligence                                                                 |
| RIPA .....    | Regulation of Investigatory Powers Act                                                            |

## *Abbreviations and Acronyms*

|                |                                                                             |
|----------------|-----------------------------------------------------------------------------|
| RG .....       | Resignements Generaux (Central Directorate of General Intelligence, France) |
| RUSI .....     | Royal United Services Institute                                             |
| RMA .....      | Revolution in Military Affairs                                              |
| SALT .....     | Strategic Arms Limitation Talks                                             |
| SAR .....      | Synthetic aperture radar                                                    |
| SAS .....      | Special Air Service                                                         |
| SATCEN .....   | EU Satellite Centre                                                         |
| SBSS .....     | Space-based surveillance satellite                                          |
| SCAN .....     | Scanning, analysis and notification                                         |
| SCUD .....     | Soviet-made ballistic missile                                               |
| SGAC .....     | Senate Governmental Affairs Committee                                       |
| SGHR .....     | Secretary General/High Representative of the EU                             |
| SHAPE .....    | Supreme Headquarters Allied Forces in Europe (NATO)                         |
| Shin Bet ..... | Sherut ha-Bitachon ha-Klali (General Security Service, Israel)              |
| SIAC .....     | Single Intelligence Analysis Capacity                                       |
| SIGINT .....   | Signals intelligence                                                        |
| SIOP .....     | Select Intelligence Oversight Panel                                         |
| SIS .....      | Secret Intelligence Service (Great Britain); Schengen Information System    |
| SITCEN .....   | Situation Centre                                                            |
| SITINT .....   | Situational intelligence                                                    |
| SitRoom .....  | EU Situation Room                                                           |
| SNIE .....     | Special national intelligence estimate                                      |
| SNV .....      | Stiftung Neue Verantwortung                                                 |
| SOCINT .....   | Socio-cultural intelligence                                                 |
| SOCMINT .....  | Social media intelligence                                                   |
| SOCTA .....    | Serious and Organised Crime Threat Assessment                               |
| SOE .....      | Special Operations Executive                                                |
| SOF .....      | Special Operations Forces                                                   |
| SPA .....      | Special political action                                                    |
| SSCI .....     | Senate Select Committee on Intelligence                                     |
| START .....    | Strategic Arms Reduction Treaty                                             |
| STASI .....    | Staatssicherheit (Ministry for State Security, German Democratic Republic)  |
| SVR .....      | Sluzhba Vneshnei Razvedki (Foreign Intelligence Service, Russia)            |
| SWIFT .....    | Society for Worldwide Interbank Financial Telecommunication                 |
| TECHINT .....  | Technical intelligence                                                      |
| TEK .....      | Hungarian Anti-Terrorism Task Force                                         |
| TELINT .....   | Telemetry intelligence                                                      |
| TE-SAT .....   | Terrorism Situation and Trend Report                                        |
| TEU .....      | Treaty on European Union                                                    |
| TFEU .....     | Treaty on the Functioning of the European Union                             |
| TFTP .....     | Terrorist Finance Tracking Program                                          |
| TIARA .....    | Tactical Intelligence and Related Activities                                |
| TOR .....      | Terms of reference                                                          |
| TWP .....      | Terrorism Working Party                                                     |
| U2 .....       | US built spy plane                                                          |
| UAV .....      | Unmanned Aerial Vehicle                                                     |
| UK .....       | United Kingdom                                                              |
| UN .....       | United Nations                                                              |
| UNSCOM .....   | United Nations Special Commission                                           |
| USA .....      | United States of America                                                    |
| USDI .....     | Undersecretary of defense for intelligence                                  |
| VIH .....      | Virtual intelligence hub                                                    |
| VIS .....      | Visa Information System                                                     |
| VoIP .....     | Voice-over-Internet Protocol                                                |
| WAAS .....     | Wide area airborne surveillance                                             |
| WEU .....      | Western European Union                                                      |
| WKC .....      | Watch-Keeping Capability                                                    |
| WMD .....      | Weapon of mass destruction                                                  |
| WWII .....     | Second World War                                                            |



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