

EU's focus on renewable energy 'undermining' investment in carbon capture technology, warn MEPs: theparliament.com

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European parliament has 'obligation' to safeguard citizens' rights to privacy, says Claude Moraes

The revelations from Edward Snowden on the mass surveillance of European citizens' communications by the US under Prism and other programmes, and by some member states of the EU, has prompted widespread debate on the issue of surveillance and national security.

The revelations have come from a whistleblower and are by their very nature controversial, but the sheer scale of what was revealed has justified national parliamentary inquiries across the world. European citizens understand the need for intelligence services operating effectively to ensure our security but they also understand that this must be balanced by individual freedoms which go to the heart of our democracies.

MEPs should thoroughly investigate such allegations just as national parliamentarians around the world have done so on behalf of their citizens. However, the European parliament inquiry has a deeper purpose. It is not just a reaction to these revelations, important as they are, but a mature response from an international parliament, which has, for some years, been building a substantial body of work in the area of data protection regulation and law including on issues such as passenger name records and Swift.

Given the scale of these ongoing revelations the civil liberties, justice and home affairs committee inquiry will focus first on interviewing individuals about the allegations themselves. Second, it will look at issues including the actual data protection safeguards for EU citizens with the US, including the safe harbour agreement, the obligation of all member states to respect the European court of human rights and the requirement for proportionality, the safety of EU citizens' data when using cloud computing services of companies based in the US, protection for whistleblowers in the EU, the impact of these revelations for media freedom and the added value of surveillance programmes in relation to national security.

These revelations of classified intelligence programmes both in the US and in the member states have focused attention on the balance between national security and fundamental rights. The inquiry will look into the grey areas between policing and intelligence. Intelligence agencies do not work in a legal vacuum and are still obligated to respect the fundamental rights of citizens. The only way to derogate from a fundamental right is if that measure is both proportionate and necessary in a democratic society. At certain points the fight against terrorism mandates discretion and trust on the parts of governments; however, it does not mandate a blanket ban on transparency when it comes to issues of security. Just how transparent and accountable intelligence activity can be is a legitimate question for this inquiry.

This controversy on governmental surveillance programmes shows just how important the ongoing negotiations on the data protection package are for EU citizens. The data protection regulation can address concerns with surveillance programmes like Prism by implementing safeguards for any request by public authorities or courts in a third country for personal data of EU citizens. The implementation of a

common framework on data protection can help ensure that any transfer of EU citizens' data to non-EU law enforcement authorities should always be excluded except in clearly defined, exceptional and judicially reviewable situations.

We, as the European parliament, have an obligation to ensure that these allegations are not just brushed aside to be forgotten without implementing mechanisms to safeguard citizens' rights to data protection and privacy. This is an opportunity for a debate on how EU citizens want their online data to be protected and what measures the EU and individual member states will implement to respect that.

Claude Moraes is parliament's rapporteur for the civil liberties, justice and home affairs committee inquiry on electronic mass surveillance of EU citizens