



NSA inquiry: EP should rethink data transfer deals with the US, experts say

Committees Committee on Civil Liberties, Justice and Home Affairs [07-11-2013 - 20:05]

The European Parliament should use its powers to reconsider EU-US data transfer deals and push for the creation of a European privacy cloud, EU-level protection for whistleblowers and a strong judicial authorisation of surveillance activities, data protection and intelligence experts told MEPs at the eighth Civil Liberties Committee hearing on surveillance of EU citizens. Creating a European Intelligence Service is not a solution, they added.

Jan Philipp Albrecht (Greens/EFA, DE) asked Sergio Carrera, of the Centre for European Policy Studies, what courses of action are open to Parliament. He replied that Parliament "should use all its powers to reconsider instruments of cooperation with the US" such as the Terrorist Finance Tracking Programme (TFTP) or the Passenger Name Record (PNR) agreement. He added that "Safe Harbour" data protection standards (applicable to US firms operating in Europe) have been "gravely violated by mass surveillance".

European NSA "is not a solution"

Replying to MEPs' questions further to Commission Vice-President Viviane Reding's suggestion that Europe should set up its own intelligence service, Mr Carrera said: "The idea to have a European NSA would not be a solution". "Why doesn't Ms Reding ask for the suspension of the mutual legal assistance agreement with the US as a first step?" wondered Carmen Romero López (S&D, ES).

Key proposals

The proposals put forward by experts included a setting up a European "privacy cloud" (a secure data storage location to protect internet users' privacy), a standing inter-parliamentary committee (EP and national parliaments) to oversee EU home affairs agencies (e.g. Europol) and EU-level protection for whistleblowers (including the possibility of granting them asylum in an EU member state).

Oversight is not enough: surveillance needs a stronger legal footing

"I don't believe that [parliamentary] oversight by itself will solve the problem. (...) We need changes in the laws" and judicial authorisation of covert surveillance operations to assess their necessity and proportionality, stressed former legal director of the UK security and intelligence agencies MI5 and MI6 David Bickford. He added that in the UK, oversight should be done by parliamentarians elected by other parliamentarians, and not by the executive.

Replying to a question by Carlos Coelho (EPP, PT) he said: "First there should be judicial authorisation and then parliamentary oversight (...) I have no doubt that the 'examining judge' system offers the best assurance to the public that their privacy is safeguarded by independent, non-political, coal-face supervision.(...) This would reduce to the minimum the risk of abuse".

"In the British executive there was no discussion of the Tempora programme before the Snowden revelations", said Executive Director of Privacy International Gus Hosein. Also, in the US and in the UK, parliamentary oversight committees have ended up as "cheerleaders" for intelligence agencies, he added. "This is the Wild West all over again", he said, stressing that companies that cooperated in surveillance programmes should also be held to account.

Damaged trust

Press release

Experts stressed that large scale surveillance programmes "damage trust" both of citizens and commercial firms. "We are witnessing a continuous breach of fundamental rights in some member states", said Leiden University Assistant Professor Francesco Ragazzi.

Next steps

The next inquiry hearings will take place on 11 and 14 November, in Brussels, and on 18 November, in Strasbourg. The draft report by Claude Moraes (S&D, UK) is expected to be presented in the first week of December and put to a committee vote in January 2014. The plenary vote is due to take place in February 2014.

In the chair: Claude Moraes (S&D, UK)

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