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Plenary sitting

28.5.2015

B8-0000/2015

DRAFT MOTION FOR A RESOLUTION

further to Question for Oral Answer B8-xxx/year

pursuant to Rule 128(5) of the Rules of Procedure

on the Follow up to the European Parliament Resolution of 12 March 2014 on
the electronic mass surveillance of EU citizens

(2015/0000(RSP))

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on behalf of the Committee on Civil Liberties, Justice and Home Affairs

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United in diversity

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B8-0000/2015

European Parliament resolution on the Follow up to the European Parliament Resolution of 12 March 2014 on the electronic mass surveillance of EU citizens (2015/0000(RSP))

The European Parliament,

- having regard to its resolution of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs¹ (the resolution);

- having regard to the working document on the follow up of the LIBE Inquiry on Electronic Mass Surveillance of EU citizens of 19 January 2015²;

- having regard to the Resolution of the Parliamentary Assembly of the Council of Europe of 21 April 2015 on Mass surveillance;

A. whereas in the resolution it called on the US authorities and the EU Member States to prohibit blanket mass surveillance activities and bulk processing of personal data of innocent people and denounced the reported actions by intelligence services that severely affected EU citizens' trust and fundamental rights; whereas the resolution pointed towards the possible existence of other motives such as political and economic espionage given the capacity of the reported mass surveillance programmes;

B. whereas the resolution launched a "European digital habeas corpus to protect fundamental rights in a digital age" with eight specific actions and instructed its Committee on Civil Liberties, Justice and Home Affairs to address it within one year with a view to assessing the extent to which the recommendations have been followed;

C. whereas the aforementioned working document reports on the developments since the adoption of the resolution, with the stream of revelations of alleged electronic mass surveillance activities continuing, and on the state of implementation of the proposed "European Digital Habeas Corpus" indicating the limited response of the institutions, Member States and stakeholders called upon to act;

D. whereas in its resolution it had called on the Commission and other EU Institutions, bodies, offices and agencies to act upon the recommendations in accordance with Article 265 TFEU ("failure to act");

1. Welcomes the inquiries of the German Bundestag, the Council of Europe, the United Nations and the Brazilian Senate, the debates in several other national Parliaments and the work of numerous civil society actors, that have contributed to the raised general awareness regarding electronic mass surveillance;

2. Is however highly disappointed by the overall lack of sense of urgency and willingness

¹ Texts adopted, P7_TA(2014)0230.

² PE546.737v01-00

shown by most Member States and the EU Institutions to seriously address the issues raised in the resolution and to carry out the concrete recommendations therein, as well as by the lack of transparency towards and dialogue with the European Parliament;

3. Considers the Commission's reaction to the resolution so far highly inadequate given the extent of the revelations; calls on the Commission to act on the calls made in the resolution by December 2015 at the latest; reserves the right to bring an action for the failure to act or to place certain budgetary resources for the Commission in a reserve until all recommendations have been properly addressed;

Data Protection Package

4. Repeats its calls on the Council to accelerate its work on the Data Protection Package to allow for its adoption in 2015; in this regard calls on the Council to present a clear roadmap towards the adoption of a general approach on the draft Data Protection Directive;

5. Reminds the Council of its commitment to respect the EU Charter on Fundamental Rights in its amendments to the Commission proposals; reiterates in particular that the level of protection offered should not be lower than that already established by Directive 95/46/EC;

6. Stresses that both the Data Protection Regulation and the Directive are necessary to protect the fundamental rights of individuals, and that the two must therefore be treated as a package to be adopted simultaneously, in order to ensure that all data-processing activities in the EU provide a high level of protection in all circumstances; underlines that the objective of strengthening the rights and protections of individuals with regard to the processing of their personal data must be met when adopting the package;

EU-US umbrella agreement

7. Notes that since the adoption of the resolution, several rounds of negotiations have taken place with the US with a view to agreeing on the EU-US framework agreement on the protection of personal data when transferred and processed for law enforcement purposes ('Umbrella agreement');

8. Welcomes the efforts by the US administration to rebuild trust with the introduction of the Judicial Redress Act of 2015 into Congress; considers ensuring the same rights of effective judicial redress for EU citizens / individuals whose personal data are processed in the EU and transferred to the US without any discrimination between EU and US citizens in all the same circumstances to be of paramount importance; calls on Congress to pass such legislation;

Safe Harbour

9. Recalls that the resolution calls for the immediate suspension of the Safe Harbour Decision as it does not provide adequate protection of personal data for EU citizens;

10. Recalls that the Commission addressed 13 recommendations to the US in its Communications of 27 November 2013 on the functioning of the Safe Harbour in order to

ensure an adequate level of protection;

11. Objects to the fact that the Parliament has not received any formal Communication from the Commission regarding the state of implementation of the 13 recommendations despite the Commission's announcement to do so by summer 2014; expects the Commission to do so without any further delay;

12. In the absence of any proper follow-up to the 13 recommendations thus far remains highly sceptical as to the adequate protection of personal data under the Safe Harbour arrangement and maintains its position that the Safe Harbour be suspended because of its lack of adequacy level of protection;

13. Notes that the suspension of the Safe Harbour Decision has been presented by the Commission as an "option" to be considered if there is no satisfactory solution to the problems identified; invites the Commission to reflect on alternatives to Safe Harbour and to report about it by the end of 2015;

Democratic Oversight

14. Calls for all national parliaments which have not yet done so to install meaningful oversight of intelligence activities and to ensure that such oversight committees/bodies have sufficient resources, technical expertise and legal means to be able to effectively control intelligence services;

15. Will follow-up the conference on the Democratic oversight of Intelligence services in the European Union of 28/29 May 2015 and continue its efforts aimed at ensuring the sharing of best practices on intelligence oversight, in close coordination with national parliaments to ensure effective oversight mechanisms are in place;

Rebuilding Trust

16. Stresses that a healthy EU-US relationship remains absolutely vital for both partners; notes that revelations about surveillance have undermined public support for the relationship and that measures need to be taken to ensure that trust is rebuilt, in particular in the light of the urgent current need for cooperation on a large number of geopolitical issues of common concern; emphasises in this context that a negotiated solution between the US and the EU as a whole, respecting fundamental rights, needs to be found.

17. Emphasises that the EU should contribute to the development of international standards/principles, at UN level, in line with the UN International Covenant on Civil and Political Rights, in order to create a global framework for data protection, including specific limitations with regard to collection for national security purposes;

18. Is convinced that only if credible norms are established at the global level, a surveillance arms race can be avoided;

Private Companies

19. Welcomes initiatives by IT companies to increase privacy tools for their clients including increased use of encryption in consumer technology; notes that various companies have also announced plans to enable end-to-end encryption in response to mass surveillance revelations;

TFTP Agreement

20. Is disappointed that the Commission disregarded Parliament's clear call for the suspension of the TFTP agreement given no clear information was given to clarify whether SWIFT data would have been accessed outside TFTP by any other US Government body; intends to take this into account when considering giving consent to future international agreements;

Other personal data exchange with third countries

21. Stresses its position that all agreements, mechanisms and adequacy decisions for exchanges with third countries involving personal data require rigorous monitoring and immediate follow-up action by the Commission as the guardian of the Treaty;

22. Calls on the Commission to report to Parliament by the end of 2015 on the gaps identified in different instruments used for international data transfers as regards access by law enforcement and intelligence services of third countries and on the means to address them to ensure the continuity of the required adequate protection of EU personal data transferred to third countries;

Protection of the rule of law and the fundamental rights of EU citizens / enhanced protection for whistleblowers and journalists

23. Considers that EU citizens' fundamental rights remain in danger and that too little has been done to ensure their full protection in case of electronic mass surveillance; regrets the limited progress in ensuring the protection of whistleblowers and journalists;

24. Regrets that the Commission has not responded to Parliament's request to conduct an examination as to a comprehensive European Whistleblower protection programme and calls on the Commission to present by the end of 2016 at the latest a communication on this subject;

European strategy for greater IT independence

25. Is disappointed by the lack of actions by the Commission to follow up the detailed recommendations made in the resolution to increase EU IT security and online privacy;

26. Recognises the steps made so far to strengthen Parliament's IT security; requests that these efforts are continued and that the recommendations made in the resolution are fully and swiftly carried out; calls for fresh thinking and if necessary legislative change in the field of procurement to enhance the IT security of EU Institutions;

27. Strongly reiterates its call to develop, within the framework of new initiatives such as the Digital Single Market, a European strategy for greater IT independence and online privacy that will boost EU IT industry;

28. Will submit further recommendations in this field following its conference "Protecting on-line privacy by enhancing IT security and EU IT autonomy" scheduled for the end of 2015;

Democratic and neutral governance of the internet

29. Welcomes the Commission's aim to make the EU a reference player for Internet governance and its vision of a multi-stakeholder model for internet governance which was reiterated during the Global Multistakeholder Meeting on the Future of Internet Governance (NETMundial) in Brazil in April 2014; looks forward to the ongoing international work in this field including in the framework of the Internet Governance Forum;

Follow-up

30. Instructs its Committee on Civil Liberties, Justice and Home Affairs to continue to monitor developments in this field and the follow-up to the recommendations made in the resolution and to address the plenary again within one year;

31. Instruct its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Council of Europe.