



Committee on Civil Liberties, Justice and Home Affairs
The Chairman

IPOL-COM-LIBE D (2013) 35513

Mr Martin SCHULZ
President of the European Parliament
LOW T15003
Strasbourg

202537 03.07.2013

Dear President,

Yesterday, when opening the Plenary part-session of the European Parliament you stated that if confirmed the allegations of surveillance practices by the United States National Security Agency (NSA) of EU citizens, Member States and EU Institutions (in particular under the PRISM programme) are not acceptable.

You also asked the Coordinators of the LIBE Committee to immediately hold an extraordinary meeting in order to discuss this matter and make suggestions as how to proceed.

Further to your request an extraordinary meeting of the LIBE Coordinators took place on Monday, 1 July at 20.00. The Coordinators discussed how to best investigate the alleged violations of fundamental rights of EU citizens, of the sovereignty of our Member States and EU Institutions and examined various options (including with reference to Rules 184 and 185).

The LIBE Coordinators (with the exception of ECR) recommended launching a *LIBE Committee inquiry* based on the LIBE Committee responsibility for the protection of fundamental rights of EU citizens (particularly, right to data protection), law-enforcement and the fight against terrorism (see Annex).

I hereby request authorisation to draw up an own-initiative report (in accordance with Rule 48) on "The US NSA surveillance programme, surveillance bodies in various Member States and impact on EU citizens' fundamental rights and on transatlantic cooperation in Justice and Home Affairs". Due to the exceptional circumstances at stake such an own-initiative report would have to be authorised 'out of quota'.

The LIBE Committee inquiry would first of all deal with the following priority issues:

- i) gather all relevant information and evidence from both US and EU sources (*fact-finding*),
- ii) investigate the alleged surveillance activities of US authorities as well as possibly carried out by some Member States (*mapping responsibilities*),

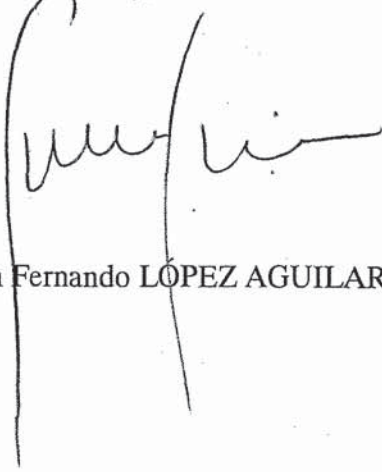
- iii) assess the impact of surveillance programmes (*damage and risk analysis*) on: fundamental rights of EU citizens (particularly their right of respect of private life and communications, freedom of expression, right to presumption of innocence and right to an effective remedy), the actual data protection in the EU and for EU citizens outside the EU focusing in particular on the effectiveness of EU law in case of extraterritoriality mechanisms; the EU safety at times of cloud computing; the added-value and proportionality of the surveillance programmes as to the fight against terrorism; the external dimension of the area of freedom, security and justice (assessing the validity of adequacy decisions for EU transfers to third countries such as “Safe Harbour” agreement, international agreements and other legal instruments for legal assistance and cooperation, etc)
- iv) explore the most adequate redress mechanisms in case of confirmed violations (*administrative and judicial redress and compensation schemes*);
- v) put forward recommendations aimed at preventing further violations and ensuring a credible high-level protection of EU citizens’ personal data via adequate means, in particular the adoption of a fully-fledged “data protection package” (*policy recommendations and law-making*);
- vi) issue recommendations aimed at strengthening IT security in the EU Institutions, bodies and agencies thanks to proper internal security rules for communication systems in order to prevent and remedy unauthorised access, disclosure or loss of information and personal data (*remedy to security breaches*)

I remain at your disposal and that of the Conference of Presidents should you require any additional information as to this inquiry that the LIBE Committee intends to launch in response to the PRISM and related surveillance programmes.

Such a process will allow for the LIBE Committee to conduct a speedy but thorough investigation to the benefit of EU citizens, in full compliance with the *raison d'être* of our Institution.

I would be grateful if you could consider the points mentioned above and approve the limited logistical requests this process entails. I would of course welcome any further guidance from yourself and the Conference of Presidents.

Yours sincerely,



Juan Fernando LÓPEZ AGUILAR

ANNEX

In their meeting of 1 July 2013 the LIBE Coordinators recommended to launch a *LIBE Committee Inquiry* based on the following working method:

- *a specific team of LIBE Members*: the rapporteur, shadow rapporteurs will be the LIBE core group leading the process;
- they will *start their work immediately after the adoption of the Plenary resolution next Thursday*: practical arrangements have already been made allowing for a first meeting of the LIBE Committee on this issue to take place on *Wednesday, 10 July a.m.* allowing for the LIBE Committee Inquiry to be launched on the same day;
- LIBE will conduct *hearings and/or specialized workshops*, either in LIBE or in ad-hoc additional meetings (support from the Conference of Presidents may be needed to allow for additional committee time and interpretation resources); proper financial, technical and personnel resources (support from Policy Departments) should be allowed for these *debates to take place in an open and public manner* allowing EU citizens to better understand the intricacy of these matters;
- regular debriefing of the *high-level group of EU and US data protection and security experts* set up by the European Commission and US authorities will be ensured within LIBE (As LIBE Chair I have sent a letter to Vice-President Reding requesting that a few Members of the LIBE Committee participate in this high-level group together with Commission and Council representatives);
- *working documents* summarizing the main facts and evidence, legal and technical analyses will be provided for (as an extension of the reserve for translation may be necessary for about 25 pages, a Bureau decision may be needed); a number of additional studies / requests for briefing notes in addition to those already requested for the year could be made if resources are available;
- in the course of this process *regular feedback* will be provided to the Conference of Presidents as often as you deem it necessary;
- a *LIBE delegation to Washington* is already included in the LIBE annual programme; it is currently planned for the end of October (week 44, request for authorization is under way); it may offer an opportunity to discuss these issues directly with US counterparts in Washington; via the allocation of an additional quota it should be ensured that the rapporteur and shadow rapporteurs could participate;
- at the end of the investigation a *LIBE own-initiative report* summarizing the main findings would be discussed and voted in committee with a view to a debate in Plenary if possible *before the end of this year or early 2013* (if requested by the Plenary such an own-initiative report would have to be authorised 'out of quota');
- support from all relevant EP services (including the Legal service, DG ITEC and

DG COMM and in close cooperation with other interested committees) will be ensured via a "*project team*" to be set up in the coming days;

- as a matter of principle *other interested Committees* will be involved as closely as possible;
- close *cooperation with national parliaments* and their specialized bodies will also be a priority (as of today at least one national parliament has already decided to launch an inquiry); to that end a further inter-parliamentary hearing could be organised;
- a specific budget for *experts* will be needed (above the normal 16 experts a year per committee) in order to be able to invite also experts from the US: Coordinators requested yesterday that adequate resources be allocated allowing for this investigation to be conducted with no further delay, at minimal additional cost but without hampering LIBE usual activities;
- if need be, adequate secure IT support should be made available by the relevant EP services.