



EUROPEAN PARLIAMENT

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Committee on Civil Liberties, Justice and Home Affairs

LIBE Committee Inquiry on Electronic Mass Surveillance of EU Citizens

Draft programme

Monday, 18 November 2013, 19.30-21.45

Strasbourg

Meeting room: LOW R 3.1

1. Following-up from the previous (14th October) session held on the international, ECHR and primary EU law aspects of the inquiry, Session I will further examine the question of the applicable law, including the discussion as to the division of competences between the national and the EU level as far as 'internal' or 'national' security are concerned.

On the one side, the Treaty on European Union states that "competences not conferred upon the Union in the Treaties remain with the Member States" (Article 4(1) TEU) and that "national security remains the sole responsibility of each Member State" (Article 4(2) TEU). Also, whereas the Treaty on the Functioning of the European Union clearly confers certain competences on the EU under Title V of Part Three on the Area of Freedom, Security and Justice, certain provisions in this same Title state that this "shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security" (Article 72 TFEU) as well as that "[i]t shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security." (Article 73 TFEU).

On the other side, the EU has exercised the competences conferred upon it by the EU Treaties in matters of internal security by deciding on a number of legislative instruments and international agreements aimed at fighting serious crime and terrorism, on setting-up an internal security strategy and agencies working in this field. It needs to be assessed therefore whether or not EU competences in the field of security have been excluded in so far as they relate to matters of national security. If this is the case, the question then arises as to the exact extent of this exclusion. Alternatively, to the extent that EU competences have not been excluded in the field of security, the question arises as to whether certain provisions of the Treaty refer instead to the manner in which those competences will be "exercised" by the EU, and whether there is a distinction to be made between legislative competences and the execution of operational measures needed to implement EU legislation, as some academics, including Professor Peers, have suggested.¹

For information: The AFET Committee will meet from 18.30 to 19.15 (room LOW N1.3) to discuss the working document co-authored by the Rapporteur, Mr Moraes and the 3 AFET Members following the Inquiry, Mrs. Gomes, Mrs. Neyts-Uyttebroeck and Mr. Salafranca.

¹ See for example Steve Peers, *EU Justice and Home Affairs Law* (2011); p. 55; OUP Oxford, 2011

19:30 – Introductory remarks by Juan Fernando LÓPEZ AGUILAR, Chair of the LIBE Committee

SESSION I
National intelligence activities in the light of EU primary law

19:35 – 19:45 Statement by

- Mr Steven PEERS, Law Professor at the University of Essex, United Kingdom

19:45 - 20:30 Questions & Answers

SESSION II
Court cases and other complaints on national surveillance programs (Part II)

20:30 - 20:45 Statements by

- Dr Adam BODNAR, Vice-President of the Board, Helsinki Foundation for Human Rights (Poland)

20:45 - 21:15 Questions & Answers

SESSION III (POSSIBLY)
Presentation of the Working documents by the Shadow Rapporteur (Part I)

21:15 - 21:45 Presentation of the working document on "Democratic oversight of intelligence services" co-authored by the Rapporteur, Mr Moraes and Mrs In 't Veld, Shadow Rapporteur