



BELGIAN SENATE

6th Conference of the Parliamentary Committees for the Oversight of Intelligence and Security Services of the European Union Member States

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Thursday, September 30th 2010

Juan Fernando Lopez Aguilar
Chairman of the committee on civil liberties, justice and home affairs of the European Parliament

Role of the European Parliament in the oversight of intelligence activities. Actual cases. Future perspectives.

1. The EP is more and more interested in being associated to an interparliamentary dialogue on democratic oversight when exceptional measures have to be taken to protect essential interest of a member state or of the European Union itself. When this Conference met the first time, this kind of issues were dealt in a legal framework (the second and third pillar) where the Treaties didn't recognise a decisive role to our institution. Since the entry into the Treaty of Lisbon, this is no more the case at least for issues dealing with the international security of the European Union and falling in the judicial and police co-operation in penal matters.
2. Being now a co-legislator with the Council, we are also in the moral and institutional obligation to know what happens and what should be done to protect the European citizens and the EU legal order by respecting at the same time the exclusive competence of each member state to preserve its internal legal order as well the security of its citizens (as clearly stated by art. 4 TUE and art. 72 of the TFUE).
3. The objective highlighted by art. 76 of the TFUE according to which "The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States" should be a shared objective also for all of us.
4. As a representative of a Parliamentary committee, I have to stress that we have everything to learn from the experience of national parliaments notably when questions related to internal security are at stake. Your experience in dealing with confidential information and in the relation with your governments will be extremely helpful and could inspire the current interinstitutional negotiations in this domain.

5. Obviously, the European Union could not be compared to a national State nor the relations between the European Parliament and the Council (or the Commission) be compared to the relations with a national government, but this situation will not make things easier as it will be more than likely that by dealing with these issues some fundamental questions could arise.
6. First, we will be confronted with the European Charter of Fundamental Rights and the need to avoid security measures at European level which could be considered disproportionate.
7. I have not to remind you how passionate have been the debates in the EP and with the other institutions when the EP has been asked to ratify the EU-US agreement on financial or passenger name record. How can a Parliament reasonably vote without being fully informed of the impact of its decision ? How can we be sure when deciding anti-terrorism measures by freezing assets of terrorist organisations or by deciding measures linked with the security on the EU territory (such as the regulation on liquids on plane and on body scanners) that these measures are really founded and not excessive ?
8. It's more than obvious that some of these decisions should be taken by referring to information arising from the member states or even from third countries (as the SWIFT case shows us); but even in these situations where the sources should be (at least temporarily) protected by a parliamentary oversight, is essential. This happens every day in your Chambers but is a rather new situation for the European Parliament, where no oversight committee exists outside the framework created by the "Solana-Brock" agreement which focus notably on defence and external security policy. Moreover even if a new European External Action Service has just been created, there is not still a fully fledged European Intelligence Service (as the Situation Centre SITCEN remains a rather limited experiment).
9. If you allow me, I will write to all of you by asking how you better arranged your work so that this could inspire the European Parliament negotiations with the other institutions as well the revision of the EU legislation in this matter.

Thanks for your attention.
