

The Echelon Affair: history of an international investigation in the documents of the Historical Archives of the European Parliament

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“The president of the EP deeply regrets the fact that the State Department, the department of Commerce, the CIA and the NSA cancelled the pre-arranged meetings with the EP delegation. By taking such a decision, the US authorities prevented the members of our Temporary Committee on the Echelon interception system from carrying out their work properly. The concerns, aroused in Europe by the surveillance of communications of all kinds, deserve a different response if suspicions are genuinely to be allayed. I find this refusal to countenance dialogue all the more worrying, because the very aim of the visit was to enable the US government authorities to respond openly to the various allegations made.”

It was with this press communication of May 2001 that the then president of the EP, Ms Nicole Fontaine, expressed disappointment for what happened to the delegation of the Temporary Committee on the Interception System Echelon during its mission to the USA. But how did we get to this situation where a president of the EP expressed regret and disappointment towards a state allied with or, we can say, a friend of the European Union and what impact did this situation have on the international relations between Europe and the USA? With this presentation I would like to retrace in few steps what the Echelon system was and the history of the temporary committee created by the EP to study and evaluate the implication of this system on the relations between the European Union and the countries which were members of this system, especially the USA.

First of all: What was Echelon?

The name Echelon refers to an interception system for national and international communication in which five countries, the USA, the UK, Canada, Australia and New Zealand played a major role, as well as other countries which played a less important role. The five countries were linked by a system of international treaties, they shared information, dictionaries of key words, technologies, etc., and they ran 120 satellites for collecting information.

Unlike many other systems developed during the Cold War, Echelon was designed for the interception of primarily non-military targets, such as governments, organisations, business and private communications in virtually every country. It is used to intercept telephonic communications (conversations and faxes) and e-mail messages from the other countries, also from allies. The Echelon system worked by indiscriminately intercepting very large quantities of communication and then siphoning out what is valuable using artificial intelligence aids.

In 1998, the Science and Technology Options Assessment (Stoa - a department for technical and scientific studies of the EP) released a study called *An appraisal of technologies of political control* and, after this study, rumours about a global system called Echelon received more attention in the public domain and in the EP. The EP started to investigate into it and was faced with difficulties at different levels: the five countries involved in the interception system were not only friends of the EU but one was and is even member of the European Union.

In this context, the relations with the Commission and the Council of European Union weren't easy to manage: the 2 institutions didn't/couldn't react to those rumours in the same way they reacted to other third countries in similar situations. And when Members of the EP addressed several questions

to the Commission and one to the Council to ask clarifications about the existence of this American/British eavesdropping and interception system, the answers from the two Institutions showed certain unease due to the need not to upset relations with the UK and with the USA.

At the beginning of 2000 during a hearing on data protection, the second STOA study on Echelon was presented and the existence of the system was confirmed. It was clearly established that, on one hand, there had been violations of the fundamental rights of the citizens and, on the other hand economic espionage may have had disastrous consequences on the economy for the whole Europe. It was clear that the EP had to react and clarify the involvement of allied countries. It was decided to create a committee. For different reasons, the EP decided to create a Temporary Committee - and not an Inquiry Committee - on the interception system Echelon. Essentially it was better to create a temporary committee because of the limitations of the mandate of an Inquiry Committee and because of the different kinds of documents that the two committees can consult.

The Committee began its activity in July 2000 and worked on two different fronts: hearings of experts to analyse the different technical and legal implications of the system and missions in the UK and in USA to understand to positions of those two countries.

If the mission in UK was considered as satisfactory, the mission to the US was a failure as was clear in the press communication read at the beginning of this presentation. First of all, the members of the commission met the Congressional Permanent Select Committee on Intelligence, several non-governmental bodies, and the former CIA director, James Woolsey and the meetings were to be considered, at the beginning, very useful and constructive.

But other meetings scheduled by the committee, considered as more important, for example with the Advocacy Center of the Department of the Commerce, with the CIA and with the NSA, meetings scheduled weeks in advance, were cancelled at the last minute without justification. These cancellations were of course deplored by the President of the Committee and more or less by all the political groups and members of the EP.

Anyway, even without the expected information, the Committee adopted its report that was debated and adopted by the plenary session in September 2001.

The resolution, which takes on the 44 recommendations presented in the report, underlined the importance to conclude an agreement between the EU and the USA whereby each party would apply to the other the rules governing the protection of the privacy and the confidentiality of business communications which were valid for its own citizens and firms. It was also proposed by the EP to organise an international congress on the protection of privacy against telecommunications surveillance in order to provide NGOs from Europe, from the US and from other countries with a forum for discussion of the cross-borders and international aspects of the problem of interception and data protection.

As a policy initiative, the European Parliament temporary committee on the Echelon affair was a focus for contemporary concerns about telecommunications security and confidentiality in Europe, examining whether these had been breached by the Echelon system.

On the level of international relations, the Echelon affair came to the forefront in Parliament at a time when transatlantic relations were under strain as a result of commercial disagreements between Europe and the US. In that period the US administration, with the Helms and Burton act of 1996, was determined to penalise companies that had links with countries subject to the US trade

embargo (especially with Cuba). It was therefore not surprising that the first mention of Echelon was in a resolution largely devoted to transatlantic economic relations.

And this context explains the certain degree of unease on the part of the EU institutions and the major political groups in Parliament: how could they investigate the Echelon system without harming the already strained relationship with their American ally and without putting the UK in an awkward position? (because we shouldn't forget that the UK was completely involved in this "spying affair").

What has been the legacy of the Echelon affair and how has it affected the EU's position on the transatlantic relations?

If we take in consideration the Echelon affair itself, I have to say that it would seem to have been largely forgotten: it is no longer referred to in the press, and websites about it have ceased to be updated, even if the system still exists!

However, after this affair, the EU has undertaken wide-ranging reforms to protect access to its citizens', institutions' and companies' data.

It has introduced a comprehensive approach to data protection, has reinforced rights to the protection of privacy on line and has ended the situation whereby these matters were governed by 28 separate sets of national laws. Following the US data spying scandals, data protection is more than ever a competitive advantage and the EU needs a uniform and strong European data protection law, which will make life easier for business and reinforce the protection of the citizens. May be this is the most important legacy of the Echelon affair.

Nonetheless, even if the Echelon system is forgotten, the issues at stake are still current following the revelations by WikiLeaks and Edward Snowden and the recent eavesdropping on German Chancellor Angela Merkel and on French diplomats at the beginning of this year. Apparently a leopard cannot change its spot!

I would like to conclude this presentation with some information about the documents on which this presentation and publication is based.

They are essentially based on the documents preserved in the Historical Archives of the European Parliament. They were transferred to the archives in 2002 when the temporary committee finished its mandate (the mandate of a Temporary committee lasts 1 year). A part from the report, the amendments, the resolution and the minutes of the meetings of the committee, the archives are also rich in documents of the hearings, of the missions abroad, in notes, in correspondence and in information/documentation on the Echelon system. The documents, in all the different languages of the EU that we received, are organised and digitised and now they can be consulted in the premises of the EP or requested via e-mail to the Historical Archives of the European Parliament in Luxembourg (arch-info@europarl.europa.eu).

And this year, as a second part of this project, but not only for this reason, the HA began to treat also the documents of the parliamentary delegations, that are of course among the most important series of documents to understand the external relations of the EP.

Now the documents of the delegations with the USA, Canada, Australia and New Zealand until 2004 are available for the consultation. The Historical Archives of the European Parliament are also organising and digitising documents of all the delegations, starting with those of the delegations with Greece and Turkey from the 60s until 2004.