

REPORT ON THE 1st ANNIVERSARY OF EDWARD SNOWDEN'S REVELATIONS

Mexico report

(8 June 2014)

Cédric Laurant, Montserrat Laguna Osorio & Korina Velazquez (*)

NSA's espionage in Mexico

One year ago, Edward Snowden revealed to the world the true extent of the United States National Security Agency's generalised espionage all over the world. When news started to break out in Mexico, there was at first no reaction from the government, even though some of Snowden's documents detailed in the press showed that espionage involved the country directly. In September 2013, the Brazilian newspaper *O Globo* wrote, based on confidential documents disclosed by Edward Snowden, that the NSA had illegally wiretapped the communications of then Mexican presidential candidate, Enrique Peña Nieto, as well as some members of his cabinet (1). In October 2013, the German weekly *Der Spiegel* published a report, also based on Snowden's documents, which explained that the NSA had intercepted e-mails from Mexico's ex-President, Felipe Calderón, and the Office of the President, as part of the operation "Flatliquid". It had also obtained access to emails of various officials at the Ministry of the Interior (*Secretaría de Seguridad Pública*), which is in charge of fighting against drug trade and human trafficking, in an operation called "Whitetamale" (2).

As part of the *O Globo's* revelations, in one of the documents Snowden showed to journalists, Mexico appears on a list of countries entitled "Friends, Enemies or Troubles?" while, in another, the importance of spying Mexico regarding trade issues is specifically mentioned. *O Globo* also stated that slides Snowden released indicate the U.S. had been making efforts gathering information on energy policy in Mexico (3) while *Der Spiegel* pointed that the NSA had not only obtained information about drug cartels, but also economic and political information.

Reactions in Congress

Many Congressmen condemned the NSA's espionage, considering it an intrusion into Mexico's sovereignty. In July 2013, the Congress adopted a resolution (4) that opposed the espionage by the NSA and any action that violates Mexican citizens' right to privacy and data protection or infringes the sovereignty of Mexican diplomatic delegations. Although the resolution



criticised the potential violation of all Mexican citizens' privacy, Congress limited itself to demand that the Federal Government ask for explanations to the US Government about the spying activities of Mexican public officers and diplomatic delegations and requested the US to stop these activities immediately and permanently. The PRD political party had asked that Congress include a request – eventually not included in the resolution – to issue a report about spying practices and ask information from the US government about the collaboration agreements signed between the Mexican and US governments. (5)

The Government's reaction

In July 2013, the Ministry of Foreign Relations (*Secretario de Relaciones Exteriores*) condemned the violation of the confidentiality of the communications of Mexican institutions, declaring that espionage violates international laws. That same Ministry sent a letter of protest to its counterpart in the United States, requesting a thorough investigation that clarify responsibilities and implement corrective actions. President Obama thereafter committed to his Mexican counterpart to start an exhaustive investigation. (6)

On 15 January 2014, the Ministry of Public Administration (*Secretaria de la Función Pública*) signed a framework contract with companies, including Google and Microsoft, in order to acquire from them software licenses until 2016, despite the fact that those companies were precisely the ones found to have collaborated with the NSA and to have been the target of espionage by the same agency. This represents a reaction different than what occurred in other countries such as Sweden, where authorities have prohibited the use of Gmail and other Google applications on government platforms, and Brasil, where the government decided to develop its own tools to avoid using private communication systems based in the United States or offered by US companies. (7)

On 8 May 2014, the Ministry of the Interior (*Secretaría de Gobernación*) and the Ministry of Public Administration issued new rules applicable to all public servants regarding the storage and management of data centers based in public institutions' own premises, and the processing of sensitive 'national security' data, under an "information security government model". (8)

Academics and companies' reactions

Various academics (9), criticised the Government's attitude, saying that they had been too timid, and, instead, praised the Brazilian Government's reactions (10) (11). Mexican state-owned petroleum company, Petroleos Mexicanos (PEMEX) (12), which together with the Brazilian petroleum company Petrobras (13), have both been spied by the NSA, did not issue any statement; neither did private companies based in Mexico. While US companies, such as Apple, Yahoo, Google, Twitter, Microsoft, Netflix and Cisco, did oppose the NSA espionage in the U.S., their Mexican subsidiaries did not make any comments. National organisations, trades unions, professional associations and industry groups didn't release any press release either.

In the media

Despite the gravity of Snowden's revelations, most national media did not cover them extensively. However, efforts by civil society had some impact as thousands of Internet users protested against surveillance and espionage through social networks.

Civil Society's reactions

NGOs such as ContingenteMX and SonTusDatos joined and supported various campaigns aimed at opposing NSA's espionage and its impact for human rights in Mexico. As an example, those two organisations, together with dozens of other NGOs around the world, sent a letter to the US Congress (14) and another one to US President Barack Obama (15) to oppose the NSA's illegal surveillance practices.

On 21 June 2013, 3 Mexican activist organisations, ContingenteMX, Propuesta Civica and AI Consumidor, filed a complaint before the Federal Institute of Access to Information and Data Protection (IFAI) in order for the governmental authority to investigate Mexican servers that have allegedly hosted a spyware named "FinFisher" that might violate the country's privacy and data protection legal framework and individuals' human rights (16). The investigation is still in progress.

On 11 February 2014, NGOs, including ContingenteMx and SonTusDatos, and companies such as Mozilla México and Wikimedia México, as well as Internet websites such as Nodo9 and Sopitas, joined the international campaign "The Day We Fight Back" to oppose NSA's espionage (17). Beside those ones, no other actions and campaigns have been carried out in Mexico.

The public's reactions

During legislative discussions earlier this year about the reform to the telecommunications legal framework, thousands of people in the street, and many more online, urged Congress to protect their rights to privacy, data protection and freedom of expression from the Federal Government while congressmembers were debating the bill the government had submitted.

Social network users and NGOs, among others, have rejected that telecommunications bill because, among other things, the text, as it is currently drafted, mandates telecommunications providers to help the government obtain users's geolocation data in real time without any judicial due process and to retain all of their communications' meta-data for two years. (18) The bill is still in discussion in Congress.

Conclusion

What Snowden revealed about the US government's espionage generated diverse reactions in Mexico. On the one hand, the Mexican government has shown a rather passive attitude towards the NSA's invasion to its citizens' privacy. On the other, the way Mexican civil society

organisations have reacted has been decisive to introduce more awareness among Mexicans about their entitlement to claim for more respect from the government to their right to privacy. This awareness has been displayed in how the public reacted to the government's telecommunications reform bill.

Notes:

(*) "**SonTusDatos**" (<http://sontusdatos.org>) is the first and only nonprofit project in Mexico that is dedicated to defend, and advocate for, the right to privacy and data protection in Mexico. **Cédric Laurant** is the co-founder of SonTusDatos, and a data privacy lawyer and public policy expert who has worked for the past 15 years with more than 10 different nonprofit organisations in Latin America, the United States and Europe. **Korina Velázquez** is another co-founder of SonTusDatos, and a public policy specialist in information society issues. **Montserrat Laguna Osorio** is an intern with SonTusDatos, and an International Relations and Political Science student at the *Instituto Autónomo de México* in Mexico City.

(1) The NSA had had unauthorized access to many emails, mobile phone calls and text messages of him and his closest collaborators. See C. Tardáguila, "EUA espionaram Dilma", *O Globo*, 1 September 2013, <http://oglobo.globo.com/pais/eua-espionaram-dilma-9782118>.

(2) "Kerry: Spying 'not unusual' in international relations", *BBC*, 1 July 2013, <http://www.bbc.com/news/world-us-canada-23129690>.

(3) "Report: NSA spy program focused on Latin America Oil, Energy Programs", *CBS DC*, 9 July 2013, <http://washington.cbslocal.com/2013/07/09/report-nsa-spy-program-focused-on-latin-america-oil-energy-programs/>.

(4) Segunda Comisión de Trabajo de la Comisión Permanente del H. Congreso de la Unión, Relaciones Exteriores, Defensa Nacional y Educación Pública, Dictamen con Punto de Acuerdo relativo al programa de espionaje de la Agencia de Seguridad Nacional estadounidense, 31 July 2013, http://sitl.diputados.gob.mx/LXII_leg/dictameneslxii_pa.php?tipot=%20&pert=&idacut=576; <http://www.senado.gob.mx/index.php?ver=sp&mn=2&sm=2&id=42275>.

(5) A Congressman also proposed to increase from 5 to 15 years of prison the penalty for those who carry out espionage through telecommunications by interfering with, stopping or intercepting wire, wireless or optic fiber communications. He also proposed to sanction those who sell equipment, devices or other computing equipment that enable the interception of communications by any electronic means over public telecommunications networks. The proposal, however, did not go through. See Chamber of Deputies, *Histórico de Comunicación*



Social, 1 November 2013, http://www3.diputados.gob.mx/camara/005_comunicacion/b_agencia_de_noticias/009_2013/11_noviembre/01_01/4852_plantea_sanchez_torres_reformar_el_codigo_penal_y_castigar_con_hasta_15_anos_de_prision_a_quien_realice_espionaje_a_traves_de_redes_de_telecomunicacion.

(6) "Obama se compromete con Peña Nieto a investigar espionaje," *Excélsior*, 5 September 2013, <http://www.excelsior.com.mx/nacional/2013/09/05/917194>.

(7) Julio Sánchez Onofre, "Google, Microsoft y Oracle, primeros ganadores de la Estrategia Digital," *El Economista*, 6 March 2014, <http://eleconomista.com.mx/tecnociencia/2014/03/06/google-microsoft-oracle-primeros-ganadores-estrategia-digital>.

(8) "Acuerdo que tiene por objeto emitir las políticas y disposiciones para la Estrategia Digital Nacional, en materia de tecnologías de la información y comunicaciones, y en la de seguridad de la información, así como establecer el Manual Administrativo de Aplicación General en dichas materias," 8 May 2014, *DOF*, http://www.dof.gob.mx/nota_detalle.php?codigo=5343881&fecha=08/05/2014. See also Korina Velázquez, "Nuevo MAAGTICSI: Emiten políticas para la Estrategia Digital Nacional en TIC y seguridad de la información", *Agenda Digital*, 12 May 2014, <http://agenda-digital.info/2014/05/12/nuevo-maagticsi-emiten-politicas-para-la-estrategia-digital-nacional-entic-y-seguridad-de-la-informacion/>.

(9) Academics such as Eduardo Rosales Herrera, PhD. in International Relations and René Jiménez Ornelas, PhD. in Social Sciences, both professors at the National Autonomous University of Mexico (UNAM).

(10) E. Olivares, "'Tibia, sumisa y temerosa' reacción de México a espionaje de EU: especialistas", *La Jornada*, 9 September 2013, <http://www.jornada.unam.mx/2013/09/09/politica/017n1pol>. In turn, at 2 conferences promoting a new reference deskbook about cloud computing, published in September 2013 and that had been fully financed by Microsoft, its author, Julio Tellez, another professor from the UNAM, did not mention anything about Snowden's revelations about the NSA's espionage and how they could have impacted the development of cloud-related services in Mexico – neither did other government and industry and trade associations' representatives present at those events. The person responsible for the Mexican Presidency's National Digital Agenda, Alejandra Lagunes, speaking on behalf of Presidency did, however, mention the importance of protecting the country's national security and Mexican citizens' personal data, but without referring to Snowden's revelations.



(11) Daniel Gershenson, Director of the NGO Al Consumidor, produced a video where he contrasted the reactions of Brazil and Mexico. The video makes a summary of the news and points at the different tones of the reactions in Brazil and Mexico. "El espionaje de Estados Unidos en México. Daniel Gershenson", *Revolución tres punto cero*, 23 October 2013, <http://revoluciontrespuntocero.com/el-espionaje-de-estados-unidos-en-mexico-daniel-gershenson/>.

(12) D. Brooks, "La NSA ha espiado a Pemex, Petrobras y petroleras de Arabia Saudita e Irán," *La Jornada*, 22 May 2014, <http://www.jornada.unam.mx/2014/05/22/mundo/023n1mun>.

(13) J. Watts, "NSA accused of spying on Brazilian oil company Petrobras", *The Guardian*, 9 September 2013, <http://www.theguardian.com/world/2013/sep/09/nsa-spying-brazil-oil-petrobras>.

(14) SonTusDatos, "SonTusDatos firma carta al Congreso de Estados Unidos sobre Internet y vigilancia de telecomunicaciones," 18 June 2013, http://sontusdatos.org/sontusdatos_firma_carta_para_congreso EEUU_sobre_internet_y_vigilancia_telecomunicaciones/.

(15) SonTusDatos, "SonTusDatos hace un llamado al Presidente de Estados Unidos para que proteja a los denunciantes y periodistas", 14 August 2013, http://sontusdatos.org/sontusdatos_hace_llamado_al_presidente_de EEUU_para_que_proteja_a_denunciantes_y_periodistas/.

(16) El software ha sido presuntamente usado en varios países para espiar a activistas de derechos humanos. Algunos activistas mexicanos incluso han reportado haber sido espiados. La ONG Privacy International, establecida en Reino Unido, envió una carta al IFAI apoyando la petición de ContingenteMX, Propuesta Cívica y Al Consumidor. Ver B. Jiménez, "Denuncian activistas cacería cibernética," *Criterio*, 11 July 2013, <http://www.criteriohidalgo.com/notas.asp?id=180404>.

(17) SonTusDatos, "El Día que Contraatacamos (11 Feb. 2014)," 11 February 2014, <http://sontusdatos.org/el-dia-que-contraatacamos/>.

(18) Andrea Becerril, "ONG: viola derechos la iniciativa de ley secundaria en telecomunicaciones de Peña," *La Jornada*, 5 April 2014, <http://www.jornada.unam.mx/2014/04/05/politica/013n1pol>; SonTusDatos, "Iniciativa de ley secundaria de telecomunicaciones: retroceso para los derechos fundamentales en México", 22 April 2014,





http://sontusdatos.org/iniciativa_ley_secundaria_telecomunicaciones_retroceso_para_derechos_fundamentales_en_mexico/.

