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## European Parliament Debates Wiretap Proposal

By NIALL MCKAY

**T**he [European Parliament](#) on Thursday debated a controversial resolution that would provide the technical infrastructure to enable police agencies to eavesdrop on Internet, fax and cell phone communications.

The resolution, known as Enfopol 98, aims to create pan-European wiretapping capabilities to combat money laundering, terrorism, child abuse and drug trafficking. However, the proposal grants such wide-ranging powers that, if it is adopted, privacy advocates fear that it will infringe upon citizens' rights.

"The Enfopol draft resolution is too general and leaves too much space for interpretation, and is bound to impact the freedom and rights to privacy of EU citizens," said Luigi Florio, a member of the European Union's Legal Affairs Committee, a body that makes legal recommendations to the European Parliament.

Enfopol would require Internet service providers, telephone companies and satellite-based communications companies to provide an electronic "back door" for law enforcement agencies to use to access communications. The companies would be expected to pay the cost of developing the technology to enable that access.

A draft resolution of the proposal stipulates that this back door must provide law enforcement officials with a subscriber's location, address, account details, credit card number, and personal identification number, in addition to real-time access to communications. Companies would also be required to provide keys to any encryption technology they supply to their customers.

The European Union is expected to vote on the proposal on Friday. But even if the resolution is approved, it is not legally binding on the member countries.

"Enfopol is not law and leaves the legal authority of wiretapping to the member countries' national constitutions," said Gerhard Schmid, a member of the European Union's

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Internal Affairs Committee. "It's simply a technical specification, a definition of what surveillance is in the light of new technologies such as Internet and cell phones."

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Indeed, Enfopol is a technical update of the European Union's Resolution for the Legal Interception of Telecommunications, which was passed in 1995. Enfopol was approved

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late last year by the Justice and Home Affairs Council, which is comprised of Justice Ministers from the 15 member states of the European Union. As a result, the debate on Thursday was largely academic, since the European Parliament can only voice its approval or disapproval of actions taken by the Justice and Home Affairs Council.

However, the debate was significant because it is the first official recognition that Enfopol is EU policy. It is now up to the member states to pass legislation or persuade communications providers to comply with the resolution.

The characterization of Enfopol as simply a "technical update" is worrying to some European Members of Parliament, who feel that without a legal framework or guidelines about when and if it should be deployed, the system is open to abuse.

"This legislation is not just a technical update," said [Johannes Voggelhuber](#), an Austrian representative for the European Parliament. "It places the onus on the telecommunications carrier to provide a watertight back door to police."

Patricia McKenna, a member of the European Parliament from the [Ireland Green Party](#), said that once enacted, Enfopol will become more than a technical specification. "This is a pan-European wiretapping network," she said.

At present, police authorities in Europe are required to obtain a court order and present it to a communications provider, who in turn provides a wiretap. However, under Enfopol's recommendations, police would have full-time access to all communications through a computer terminal.

Because of this, McKenna fears that police may only feel compelled to request a court order when they are seeking to prosecute a suspect.

"A specification that enables European police forces -- many of which don't have spotless human rights records -- to have access to citizens' telephone conversations, movements, and credit card transactions 24 hours a day, seven days a week, is a specification with Orwellian implications," McKenna said.

Furthermore, under the guidelines of a European Union proposal called the Mutual Legal Assistance Act, law enforcement officials would legally be able to eavesdrop on anybody suspected of a "serious crime." However the term "serious crime" is not defined in the legislation.

"This really means anybody they suspect of any punishable offense," said Tony Bunyan, director of [Statewatch](#), a European civil liberties group based in London.

However, according to Schmid, who compiled a report for Thursday's debate, objections to Enfpol have been exaggerated by the media.

"There are three groups opposed: Internet cyber-libertarians, who believe the Net should be free of legislation; service providers, who object to the cost, and money laundering operations, who are using the Net to move money into offshore banks," he said.

Enfpol is similar to a U.S. proposal known as the Communications Assistance for Law Enforcement Act, or CALEA, which was developed with the assistance of the Federal Bureau of Investigation. Although CALEA was passed by Congress in 1994, a technical update covering new technologies like cell phones and the Internet is still awaiting action by the Federal Communications Commission. It has encountered resistance from communications providers, among other groups, largely due to the staggering cost of supplying such back door access to law enforcement agencies.

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