

10951/2/98  
REV 2

LIMITE

ENFOPOL 98

**NOTE**

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from : Austrian Presidency

to ~~Police Cooperation Working Party~~

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Nos prev. docs: ~~OJ C 329, 4.11.1996, p.1; 10102/98 ENFOPOL 87; 10951/98 ENFOPOL 98  
REV 1~~

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**Subject : Interception of telecommunications  
– Draft Council Resolution on new technologies**

**Preliminary remark**

Delegations will find attached the second revised draft version of the Council Resolution on Interception of Telecommunications in Relation to New Technologies.

Since the Council Resolution of 17 January 1995, telecommunications technology has made further rapid progress and new telecommunications technologies have since been discussed not only in the meetings of the Police Cooperation Working Party but also at meetings of ILETS and IUR (International User Requirements)/ST experts, which regarded adjustments of the requirements of the Council Resolution of 17 January 1995 as an urgent necessity.

The appropriate documents on the various fields concerned were drafted within the abovementioned institutions, and summarised in ENFOPOL 98 following the layout of the requirements and glossary as set out in the Council Resolution of 17 January 1995.

Since the wide range covered by ENFOPOL 98 was not conducive to ready comprehension, the existing requirements were compared with the old requirements at a drafting meeting (from 20 to 22 October 1998 in Vienna) attended by IUR experts from a number of Member States, which carefully verified the extent to which the new requirements were already contained in the text of the existing requirements. The result of this verification, continued and concluded at the meeting of IUR experts (27 to 28 October 1998 in Madrid), contained the revised version of ENFOPOL 98, which was submitted to the Police Cooperation Working Party on 5 November 1998.

On the basis of this outcome of the consultations, the latest revised version (REV 2) of ENFOPOL 98 is forwarded for information and approval after verification at the forthcoming meeting of the Police Cooperation Working Party under German chairmanship.

At a later stage the text of the Council Resolution of 17 January 1995, the text of a Council Resolution now to be adopted concerning details relating to new technologies, other Council Resolutions to be adopted, e.g. on user-related data falling partly outside the requirements for interception of telecommunications, and other areas and technical descriptions of the various technologies, could be published in a manual.

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Draft

**COUNCIL RESOLUTION**

of .....

on the lawful interception of telecommunications in relation  
to new technologies

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles K.1(9) and K.2(2) thereof,

Reaffirming the considerations put forward in the Council Resolution of 17 January 1995 on the lawful interception of telecommunications, and

Aware of the fact that the requirements of 17 January 1995, after careful verification of their continued validity, are to apply to both existing and new technologies, and that the requirements must consequently be clarified and supplemented to take account of the ongoing process of technical development,

HEREBY ADOPTS THIS RESOLUTION:

The Council notes that the requirements of law enforcement agencies with regard to network operators and service providers for the purposes of lawful interception of telecommunications, as described in the Council Resolution of 17 January 1995 (96/C 329/01) are applicable both to existing and new communications technologies, for example satellite communications and Internet communications.

The Council is however of the opinion that in view of ongoing progress in telecommunications

technology, the requirements need to be clarified on a number of points.

The Council considers that the explanations as annexed should be taken into account in the implementation of measures for lawful interception of telecommunications and requests Member States to call upon the Ministers responsible for telecommunications to support this view and to cooperate with the Ministers responsible for Justice and Home Affairs with the aim of implementing the clarified requirements and definitions in relation to network operators and service providers.

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EXPLANATIONS

of the requirements and definitions of concepts in the glossary  
of the Council Resolution of 17 January 1995, published together with its Annex  
in the Official Journal of the European Communities (OJ 96/C 329/01)

Part I: General explanations

The requirements of law enforcement agencies for lawful interception of telecommunications in relation to network operators and service providers, with glossary, of the Council Resolution of 17 January 1995 shall apply also to new technologies in existence, e.g. satellite and internet communications, and to future additional telecommunications technologies.

The technical terms used in the Council Resolution of 17 January 1995 on the basis of the then state of telecommunications technology are to be interpreted as applying to new telecommunications technologies already in existence and to future additional telecommunications technologies. In this context, a number or other electronic identifier in the 1995 requirements means e.g. in the case of the Internet, the static and dynamic IP address (electronic address assigned to a party connected to the Internet), account number and E-mail address.

Certain requirements, especially Nos 1, 1.4 – 1.4.6, 2 and 3.1, can be fulfilled in the case of the Internet for example by virtue of its design because the call content and the data relating to the call are never transmitted separately in any case.

## Part II: Explanations of the Requirements

re 1.4.2. of the requirements

Called party number includes any identifier of the called party.

re 1.4.3. of the requirements

Calling party number includes any identifier of the calling party.

re 2. of the requirements

In the context of the provision of call associated data,

"as soon as possible" means transmission of the data within a few seconds.

re 3.4. of the requirements

Fixed and switched connections include all types of switched connections including circuit-switched and packet-switched connections. IP connections are not included.

re 8. of the requirements

For international systems the maximum number of simultaneous interceptions needs to be derived from combining national requirements.

Part III: Explanatory Definitions in the Glossary

re CALL

A call includes any connection irrespective of the technology of the network, e.g. packet-switched data.

re INTERCEPTION INTERFACE

In newer telecommunications technologies the interception interface may be a virtual interface within the network.

re ACCESS

To set up the technical capability for lawful interception of telecommunications exclusively for the law enforcement agencies.

