

German parliament opens way for Internet censorship

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On June 18 the German parliament passed the “Restricted Access to Child Pornography in Communication Networks Act (Restricted Access Law).” It thereby created the legal framework for the development of technology and infrastructure enabling the state to censor Web sites or undesirable opinions in the Internet.

The law makes provisions for the Federal Criminal Investigation Agency (BKA) to regularly compose lists of Internet domains that will be blocked from the public. The BKA will pass these lists on to Internet providers who will be required to take “suitable and reasonable technical measures” to “restrict” access to the designated domains. In particular, entry into the domains via the associated Internet protocol addresses (IP addresses) will be denied.

If anyone tries to enter such a domain, the provider is obliged to signal a “Stop” message. The law states that “the provider must operate a telecommunication media warning (a ‘Stop’ message)” that “informs the user about the reasons for the restriction, as well as how to contact the BKA.” The precise form of the message is to be determined by the BKA.

Moreover, the law stipulates that the Internet provider must transmit “anonymous hourly summaries of the number of attempted accesses which prompt telecommunication warnings associated with the list of proscribed domains each week to the Federal Criminal Investigation Agency.”

The Restricted Access Law was initiated by the Minister for Families Ursula von der Leyen (CDU-Christian Democratic Union), and supported by 389 parliamentary deputies in an open ballot. Some 128 deputies voted against it and there were 18 abstentions. The governing parties-the CDU, CSU (Christian Social Union) and SPD (Social Democratic Party)-approved the law, while the opposition parties-the FDP (Free Democratic Party), the Greens and the Left Party-rejected it.

In the run-up to the ballot, the intention behind the law met with widespread criticism. A petition on the federal parliament’s own Web site, entitled “No proscribing or blocking of Web sites,” succeeded in collecting almost 135,000 signatures in less than two months. Opponents argued that the concern about child pornography was merely serving as a cover for the implementation of censorship measures.

Gisela Piltz, domestic policy spokesperson for the FDP parliamentary faction, declared, “The Union (CDU and CSU) and the SPD claim to be fighting against crime, but in fact they are attacking the Internet and human freedom.”

FDP deputy Max Stadler referred to the law as “opening the way to Internet censorship.” He complained that at no stage had the relevant legislative procedure, as prescribed in the constitution, been observed. The law presented for the parliamentary vote was not identical with the one parliament had discussed in the initial reading.

The *Esslinger Zeitung* warned, “The development of a way of filtering the Internet constitutes a breach in the dike. There are already demands also to block access to forums where young girls exchange ideas about anorexia. Soon the music industry will be getting into the act and demanding that the Internet filter be used in the fight against pirate copiers. And the temptation to stifle access to political Web sites may also increase. The new law threatens to undermine freedom of information.”

The *taz.de* newspaper, closely associated with the Greens, has played down the significance of the law: “Blocking Internet sites in the way recently decided upon will hardly lend itself to exploitation for other purposes. An independent watchdog will intervene if the BKA puts Internet content other than child pornography on the stop list. Victimized site operators will object if their legitimate Web content is blocked and surfers are redirected to a page showing a stop message. The law passed yesterday also contains a definite ban on using blocking technology for matters related to civil law claims, for example those by the music or film industries. Thanks to extensive critical scrutiny of the proposed system, numerous loopholes have been spotted and closed up.”

In reality, only cosmetic changes have been made. Nothing has been done to counter the opening of the flood-gates of censorship entailed by the new state legislation. The title, “Restricted Access Law,” already makes the eventual target of the new legislation obvious. A future extension of banned sites to include those with political content would not even require changing the name of the law.

Various remarks by advocates of the law also expose the fact that child pornography is merely serving as a pretext for far-reaching surveillance, control and censorship measures being

planned for the Internet.

Dieter Wiefelspütz, an SPD politician concerned with domestic policy, claimed to the *Berlin Newspaper*: “Of course, eventually we’ll be talking about other criminal issues.” According to the *Berlin Newspaper*, he can imagine blocking Web pages providing anti-constitutional or Islamic content. Wiefelspütz later denied that he wanted to do something about anti-constitutional Web sites. However, he did not deny that he wanted to talk about expanding the scope of Internet blocking “eventually.”

Wolfgang Bosbach, vice-chairman of the CDU/CSU parliamentary faction, also hinted that the law is not exclusively aimed at combating child pornography. “I believe it is right to begin first of all with the issue of child pornography so that public debate doesn’t get bogged down,” he said.

Thomas Strobl, the CDU federal parliamentary deputy and general secretary of the CDU in the state of Baden-Württemberg, extended the discussion to include the blocking of so-called “killer computer games.” “We’re seriously considering this matter,” he told the *Cologne Stadt-Anzeiger* newspaper. “After Winnenden (where a rampaging youth shot to death 15 people last March), we’re not going back to business-as-usual. When proof exists that violent computer games have a dangerous effect on the behavior of young people, then the Internet cannot be allowed to remain a province beyond the rule of law.”

Although a great majority of the SPD voted for the Restricted Access Law, there were also isolated instances of criticism from among its ranks. A “Declaration of the SPD Online Council” claimed, “We are dealing with a law that establishes a mechanism for carrying out censorship. In view of the numerous demands for the extension of Internet blocking, concerns of citizens that this mechanism will be misused are entirely justified.”

The online council referred to Internet blocking as a way of combating child pornography that has “been proved ineffective” and warned the SPD against “making itself unelectable for the digital generation.” The censorship measures will be repellant to “many millions of young people, some of whom already have the vote and consider the Internet to be not just another communication medium, but the place where society and their community exists.”

A number of mainly younger SPD federal parliamentary candidates expressed similar reservations in an open letter to the federal parliamentary faction, warning, “We are sure that, by promoting an unworkable law that understandably raises fears of censorship, you will be turning away even our most loyal supporters in the digital world for a long time to come, and that we will lose to others the moral authority concerning the most important mass medium of our time, the Internet.” The letter accused the faction of confusing “the limited damage of an unfavorable boulevard press headline with the limitless damage of losing the credibility of an entire generation.”

The surprising success of the Pirate Party in the European elections may have influenced the composition of this letter. The Pirate Party, which is against Internet censorship, won one percent of the vote in Germany on its first electoral showing. Polling over seven percent in Sweden, it even managed to gain representation in parliament.

In the end, however, only three SPD parliamentary deputies voted against the law. Two of these were Thorsten Schäfer-Gümbel, chairman of the Hessian SPD, and Jörg Tauss, who has been in the federal parliament since 1994. Tauss left the SPD a few days later and joined the Pirate Party.

In March, preliminary proceedings were initiated against Tauss on account of possession of child pornography. His immunity, accorded as a federal deputy, was revoked and the legal proceedings were specifically brought to the public’s attention. After this, the SPD forced Tauss to resign from his posts as faction spokesman for education and research and general secretary of the SPD in Baden-Württemberg. He has continually asserted it was only through his research as parliamentary deputy concerned with the problem of child pornography that he came into contact with child pornography material. As a consequence of the legal proceedings, one of the few critics of the Restricted Access Law within the SPD parliamentary faction was effectively silenced.

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[9 December 2008]

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