

Council Conclusions on Encryption



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European Law Forum: Prevention • Investigation • Prosecution

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News

On 14 December 2020, the Council **agreed** on a common position on the way forward regarding the encryption of communications and access for law enforcement purposes. **The Council resolution on encryption** highlights the need for security through encryption and security despite encryption. It underlines the importance of encryption for the purposes of protecting individuals, civil society, critical infrastructures, media and journalists, industry and governments. At the same time, it is stressed that law enforcement authorities need to access encrypted data for exercising their lawful power to investigate crimes and bring criminals, who exploit the digital means, to justice. Access to electronic evidence can be essential, not only to conduct successful investigations, but also to protect victims and help ensure security.

As a possible way out of the described dilemma, the Council advocates to establish an active discussion with the technology industry, and with close involvement from research, academia, industry, civil society and other stakeholders, so as to strike the right balance between ensuring the continued use of strong encryption technology. At the same time, future work must guarantee the powers of law enforcement and the judiciary to operate on the same terms as in the offline world. Potential technical solutions for gaining access to encrypted data must comply with the principles of legality, transparency, necessity and proportionality, including protection of personal data by design and by default.

A common regulatory framework for the EU that would allow law enforcement authorities to carry out their task effectively while protecting privacy and fundamental rights could further be assessed.

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ISSN: 1862-6947

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The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by
the European Union**