

# Dismantled Encryption Networks: German Courts Confirmed Use of Evidence from EncroChat Surveillance

Thomas Wahl

Two German courts – the Higher Regional Court of Bremen and the Higher Regional Court of Hamburg – confirmed warrants for pre-trial detention against persons whose criminal activities had been revealed as a follow-up of the infiltration of the encrypted communication network EncroChat.

The dismantling of EncroChat has been celebrated by law enforcement authorities as one of the largest strikes against organised crime in recent years. [On 2 July 2020, Europol and Eurojust informed](#) the public that a joint investigation led by French and Dutch law enforcement authorities enabled the interception, sharing, and analysis of millions of messages that were exchanged between criminals via the encrypted phone network provided by EncroChat. Since 2017, the French Gendarmerie and judicial authorities have been investigating phones that used the secured communication tool EncroChat, after discovering that the phones were regularly found in operations against organised crime groups and that the company was operating from servers in France. French police put a technical device in place to go beyond the encryption technique and were thus able to access the users' correspondence. Between April and June 2020, the authorities were able to read the chat messages of thousands of users in real time.

Although Germany was seemingly not involved in the initial joint investigation, the surveillance brought to light a bulk of data that led to follow-up criminal investigations in other European countries. The decision of the Higher Regional Court of Bremen (handed down in December 2020) and [the decision of the Higher Regional Court of Hamburg](#) (handed down in January 2021) in two separate cases confirm that the collection of evidence by French authorities can also be used in German criminal proceedings if the interception of the surveillance reveals criminal activities from persons residing in Germany (in the cases at issue: drug trafficking offences). The information was lawfully made available to the German Federal Police Office via the exchange of spontaneous information and intelligence in accordance with [Framework Decision 2006/960/JHA](#).

On 10 March 2021, Eurojust and Europol reported [another successful strike against an encrypted communication network](#) that was predominantly used by organised crime groups. As of mid-February 2021, authorities from Belgium, France, and the Netherlands have been able to monitor the information flow of approximately 70,000 users of Sky ECC. Many users of EncroChat changed over to the popular Sky ECC platform, after EncroChat was unveiled in 2020. Europol supported the operations by coordinating the law

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Published in  
2021, Vol. 16(1) *eucriM* pp 22 –  
23

ISSN: 1862-6947

<https://eucriM.eu>

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enforcement activities of the JIT partners and by helping analyse the data. Eurojust facilitated judicial cooperation and coordinated European Investigation Orders.

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



**Co-funded by  
the European Union**