

Third Report of the Observatory Function on Encryption



Cornelia Riehle

News

On 2 July 2021, Eurojust published its [Third Joint Report of the Observatory Function on Encryption](#). The report deals mainly with the following issues:

- Legal aspects of handling encryption in criminal investigations;
- Overview of legal frameworks in the Member States relating to encryption, including relevant jurisprudence and casework experience;
- Technical developments (e.g., hardware-based encryption, Bcrypt password hashing) and their effects on investigation efforts, including upcoming opportunities and challenges in the context of quantum computing;
- The EncroChat case as an example of good practice;
- Policy developments influencing and shaping the debate on encryption, including developments within the EU and – for the first time – outside the EU with a focus on the efforts being made in Australia and the USA.

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According to the report's conclusion, encryption is an essential component in safeguarding fundamental rights, digital sovereignty, and innovation. At the same time, however, it is being increasingly used for illegitimate purposes. Criminals exploit encryption services to safeguard their communication, and they make use of off-the-shelf and home-grown solutions. This has led law enforcement and the judiciary to call for proportionate and adequate tools by which to obtain lawful access to electronic evidence that would finally also be admissible in court. Policymakers are left with the dilemma of finding solutions providing for proper privacy safeguards that, at the same time, allow to effectively protect citizens from crime.

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