ENCRYPTED DATA AND THE PRIVILEGE AGAINST SELF-INCrimination
MAPPING THE PROBLEM AND SHARING BEST PRACTICES

Rome, 28-29 May 2018

Speakers and chairs

Laviero Buono, Head of Section, European Criminal Law, ERA, Trier

Els de Busser, Assistant Professor Cyber Security Governance, Institute of Security and Global Affairs, Leiden University

Rainer Franosch, Senior Public Prosecutor, Head of Cybercrime Division, Ministry of Justice of the German Federal State of Hesse, Wiesbaden

Alisdair Gillespie, Professor, Criminal Law and Justice, Lancaster University, Lancaster

Damir Kahvedžić, Technical Team Lead, Digital Forensics and eDiscovery, BSI, Ireland

Stephen Mason, Barrister and Associate Research Fellow, Institute of Advanced Legal Studies, London

Joachim Meese, Professor, Criminal Law and Criminal Procedure, University of Antwerp; Managing Partner, Van Steenbrugge & Partners, Ghent

Goran Oparnica, Director, INsig2, Zagreb

Representative, DG Home, European Commission, Brussels

Key topics

- Encrypted data: technical and legal issues
- Demonstrations: how encryption works
- Mutual Legal Assistance in the digital age
- Encryption: case law from the European Court of Human Rights
- Jurisdictional issues
- EU legislation in progress

Language: English

Event number: 318D35

Organiser: ERA (Laviero Buono) in cooperation with the Link Campus University and the Eurgit Association, Rome

Venue: Link Campus University, Via del Casale di S. Pio V, 44, 00165 Rome

With the support of the Erasmus+ programme of the European Union
Monday, 28 May 2018

8:30 Arrival and registration of participants
9:00 Welcome and introduction
   Link Campus University, Eurgit & Laviero Buono

I. ENCRYPTED DATA AND THE PRIVILEGE AGAINST SELF-INCrimination:
   AN INTRODUCTION
Chair: Laviero Buono

09:15 A brief introduction to the history of encryption using selected examples
   • What it is
   • Where it came from
   • What the limitations are
   Stephen Mason

10:00 Looking into encrypted data
   • How encryption works (demos)
   • Technical and legal issues
   • How difficult it is to break encryption
   • Impact on legal practitioners
   Alisdair Gillespie

10:45 Discussion
11:00 Break
   Chair: Link Campus University

11:30 Striking the right balance between encryption and privacy: main technical
   and legal issues
   Els de Busser

12:15 Discussion
12:30 Lunch

II. RESPONSES TO ENCRYPTED DATA IN LEGAL PROCEEDINGS
Chair: Eurgit

14:00 Domestic legislation and case law
   • Belgium
   • Germany
   • United Kingdom
   Joachim Meese, Rainer Franosch, Stephen Mason

14:45 The unsustainable slowness of Mutual Legal Assistance (MLA) in the
   digital age
   Rainer Franosch

15:15 Discussion
15:30 Break
16:00 Encryption and case law from the European Court of Human Rights (ECtHR)
   Joachim Meese

16:30 Encrypted files and challenges for law enforcement authorities
   Link Campus University/Eurgit

17:00 Discussion
17:15 End of first day
20:30 Dinner

Objective
The use of encryption serves the legitimate need for privacy and security as well as the needs of business and governments for a safe and secure cyberspace. In practice, anyone can use encryption in order to secure and protect their personal data and communications. Encryption technologies are also exploited by criminals, however, in order to hide their data and potential evidence, protect their communications and conceal their financial transactions.

The aim of this event is to analyse the obstacles that encryption poses to effective cybercrime investigations and to consider the effects of dealing or failing to deal with the problems.

Key topics
• Encrypted data: technical and legal issues
• Demonstrations: how encryption works
• Impact of encrypted files on Mutual Legal Assistance requests
• Encryption: case law from the European Court of Human Rights
• Encryption and transborder access to data
• Encryption (and e-evidence): EU legislation in progress

Who should attend?
Defence lawyers, in-house counsel, judges, prosecutors, civil servants and policymakers active in the field of EU criminal law.
Tuesday, 29 May 2018

III. SEARCH AND SEIZURE ACROSS JURISDICTION

Chair: Joachim Meese

09:30 A forensic analysis framework for recovering encryption keys and hidden information
Goran Oparnica

10:15 Encryption, computer forensics on social media and the “Cloud”
Damir Kahvedžić

11:00 Discussion

11:15 Break

IV. WORK CARRIED OUT BY THE EUROPEAN UNION

11:45 Recent steps taken by the European Union to launch a reflection process on the issues related to e-evidence and encryption
European Commission

12:15 Discussion

12:30 End of the conference and light lunch

For programme updates: www.era.int
Programme may be subject to amendment.

Your contact persons

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CPD

ERA’s programmes meet the standard requirements for recognition as Continuing Professional Development (CPD). This event corresponds to 8.5 CPD hours.

e-Learning Courses on EU Criminal Law

10 Key Questions on the General Principles of EU Law as applied by the CJEU to Criminal Justice
Specialised e-learning course
This e-learning course answers 10 key questions on the general principles of EU law as applied by the CJEU to criminal justice and its interpretation of concepts of substantive and procedural criminal law.

Fighting Child Pornography Online: 10 Key Questions
Specialised e-learning course
This e-learning course considers the main European and international legal instruments and provisions in place to fight child pornography online. Reference to key academic literature is provided and full details of this can be found in the embedded bibliography. Hyperlinks will allow you to find the relevant legal instruments and key cases. An e-library is also available. The course also features mini-video presentations (of five-seven minutes each) by top European experts. Finally a short quiz allows you to check your understanding of the issues raised.

The European Arrest Warrant: 10 Key Questions for Defence Counsel
Specialised e-learning course
This e-learning course answers 10 key questions on the role of the defence lawyer in European Arrest Warrant (EAW) proceedings. Each answer provides the reader with a structured overview of the topic as well as detailed information regarding relevant instruments and cases.

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Registration
Encrypted Data and the Privilege Against Self-Incrimination
Rome, 28-29 May 2018 / Event Number: 318D35/ek

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☐ Evening programme: I shall attend the function on 28 May 2018 (at no extra charge).

Registration fee

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** Young lawyers & other groups**

- For young lawyers up to 30 years of age (important: the participant must provide a copy or details of his or her passport or identity card on registration);
- Full-time staff of universities or comparable academic institutions;
- Staff of charitable organisations or comparable institutions;
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