



Informal Meeting of Justice and Home Affairs Ministers

(7-8 July, Bratislava, Justice Session)

SK EU2016

Encryption and the fight against crime: the need for a political debate

I. The use of encryption technologies is growing

The internet has changed the way the world communicates and encryption technologies are increasingly becoming part of these communication models globally. The use of encryption addresses a legitimate need for privacy and the exercise of the fundamental rights of individuals, as well as the needs of business and governments. Businesses have recently invested in developing tools that offer the best protection for their customers' privacy and it is claimed that efforts to weaken encryption may expose people's private information to abuse from other parties.

In general, anyone can use encryption in order to secure his or her personal data and business communications. Secure processing is an important element of personal data protection, and encryption is recognised as one of the security measures in the recently adopted General Data Protection Regulation. Companies, public administrations and individuals are encouraged to use encryption to protect their data.

At the same time, the opportunities offered by encryption technologies are exploited by criminals.

II. Encryption in the context of criminal proceedings

It is a legitimate expectation of all citizens that crimes will be detected and perpetrators will be brought to justice. The use of encryption should not prevent the competent authorities from meeting this expectation, in accordance with the procedures, conditions and safeguards set forth by the law. Solutions need to be identified that would enable effective investigations involving encrypted data, while meeting the requirements of the principles of necessity and proportionality, fundamental rights, and the rule of law.

III. A need for a balanced solution

It is important to have a clearer picture of national regulations on this issue and to explore possible actions at EU level. Further consideration is necessary to identify solutions that offer the least intrusive means of intervention but also enable law enforcement authorities to protect citizens' legitimate interests and rights. To ensure safety, security and justice there is a need to establish frameworks that allow for effective investigation and prosecution of criminal activities while fully complying with the principles of necessity, proportionality and legality.

