ISOC webinar

The Future of Encryption in the EU

Encryption & the New Digital Agenda

Presentation

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To encrypt or not to encrypt?

Source: Do not let the spies weaken encryption, FT

The role of encryption

Protection of confidentiality of digital data throughout its lifecycle - on devices, in the process of data transfer, and also in the cloud;

largely applied to secure communication between parties from interception;

➔Paramount importance **for privacy and data protection.**

The right to private life is one of core human rights recognized internationally.

Protection of personal data is an inseparable element of this right, which is guaranteed by **Article 8 of the ECHR** and by the **Convention 108.**

Human rights and encryption

- **Cybercrime Convention:** does not criminalise the use of computer technology for purposes of anonymous communication;

- the Report on the Democratic oversight of the Security Services - **Venice Commission** (2007): recommends that Individuals should be free to use whatever technology they choose to secure their communications, and **states should not interfere with the use of encryption technologies.**

Policy recommendations

- CM/Rec(2012)3 on the protection of human rights with regard to search engines and CM/Rec(2012)4 on the protection of human rights with regard to social networking services which see **end-to-end encryption** of communication between the user and social networks/search engine as a **measure to protect privacy and personal data**;
- CM/Rec(2016)5 on **Internet freedom**: proposed **Indicators** contained therein explicitly avert states from prohibiting the usage of encryption technologies and from surveillance activities which weaken encryption systems;
- PACE Resolution 2045 (2015) on **Mass surveillance** in which the Assembly strongly endorses the European Parliament's call to promote the wide use of encryption and resist any attempts to weaken encryption

Encryption & freedom of speech

Encryption is important not only for the protection of privacy, but also for the exercise of the **freedom of expression:**

- In secure private communication people can freely exchange information and ideas;

According to the **ECHR's case-law**, freedom of expression is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population.

- A reduced confidentiality of communications severely damages **diversity of opinions** and views ➔a **necessary attribute of a democratic society.**

Encryption regulation

The complexity of the issue is not limited to human rights risks, involving also technology issues and business interests of internet companies.

➔ Requires: comprehensive, balanced approaches with the participation of all relevant stakeholders.

Banning or weakening encryption shall not be regarded as a solution in the face of terrorist threats as it necessarily weakens the security of all citizens, not only criminals and terrorists.

➔Encryption issues need to be addressed at the international level, including for the reason that complex jurisdictional matters involved;

➔Need more attention to encryption issues at **internet governance** discussions;

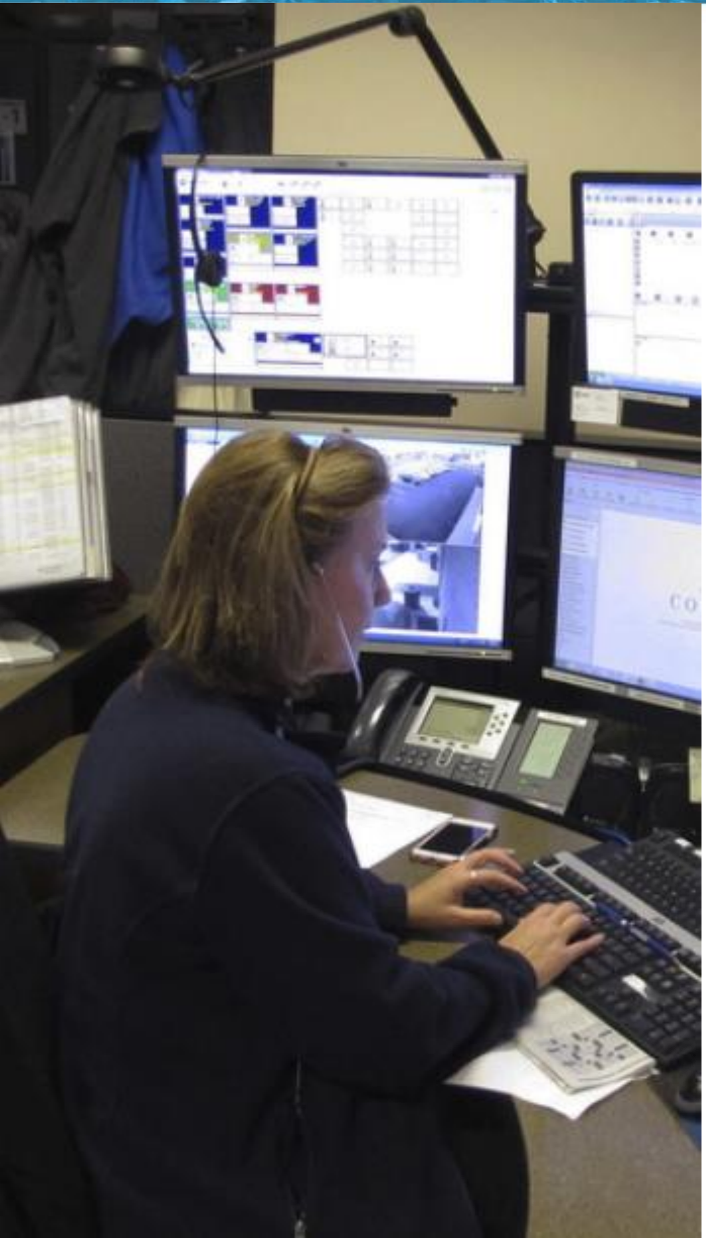
➔ Need for **multi-stakeholder dialogue** in the search for viable solutions.

Challenges of encryption

In the **age of major terrorist threats** governments and security services in many countries are trying to pave their way to cryptographic backdoors or to ban end-to-end encryption - in the name of **public security.**

Consequences: These developments put **confidentiality of private communications at serious risk**, up to becoming subject to mass surveillance, or political censorship. Further risks include (but are not limited to) <u>compromising the identities of political activists, bloggers, journalists putting their security</u> at stake.

Aproaches to encryption



Complexity of the issue is not limited to human rights risks, involving also technology issues and business interests of internet companies.

Discussion on encryption should remain within technical experts, communities - on how to best guarantee the highest data security in different data transfer schemes.

Avoid a political debate on individuals versus intermediaries' responsibility for online content, law enforcement access to personal data and on online anonymity as those questions are to be assessed in a much broader context.

The Council of Europe is ready to provide its expertise based on wide multiplicity of international standards.

Thanks for your attention !

Further resources:

www.coe.int/**freedom**of**expression**

www.coe.int/**internet**governance

www.coe.int/**data**protection

www.coe.int/**cyber**crime

www.coe.int/**AI**

See also: Facebook Page

Information Society Group

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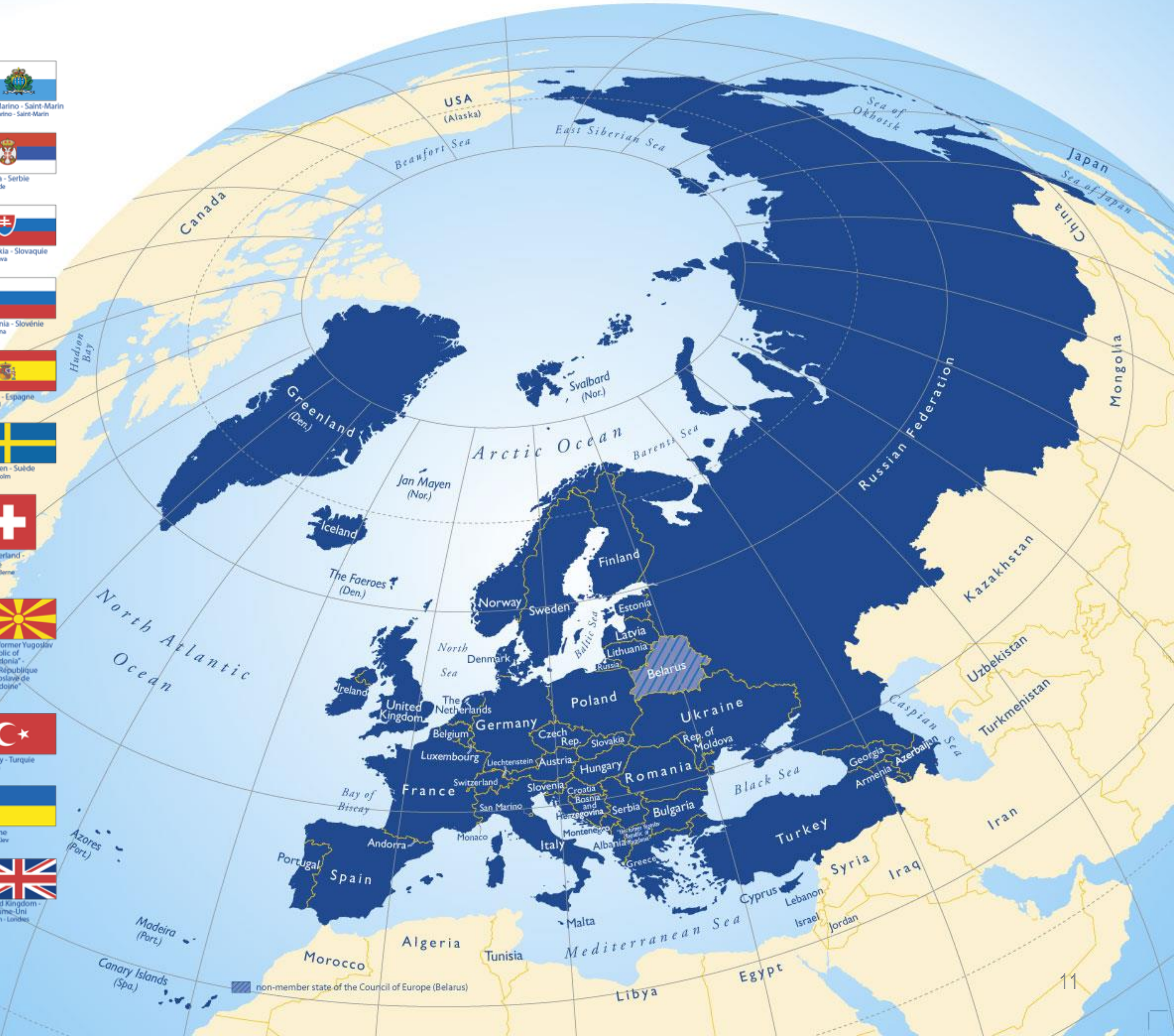

▨ non-member state of the Council of Europe (Belarus)