



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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FOURTH SECTION

Application no. 22234/25
Murat SILGIR
against Germany
lodged on 18 July 2025
communicated on 31 October 2025

SUBJECT MATTER OF THE CASE

The application concerns the applicant's criminal proceedings, his conviction for drug trafficking as a member of a gang and the use of EncroChat user data by the German courts as main evidence.

From 2018 onwards the French authorities investigated EncroChat, an encrypted mobile-phone telecommunications tool which operated as a closed network. The investigation culminated in the remote retrieval of EncroChat user data, including text messages, by the French authorities from 1 April to 2 June 2020 (for further details regarding the French investigation see *A.L. and E.J. v. France* (dec.), nos. 44715/20 and 47930/21, §§ 4-34, 24 September 2024).

Pursuant to a European Investigation Order issued by the Frankfurt am Main Chief Public Prosecutor's Office the French authorities transferred the data to the prosecutor's office via the German Federal Office for Criminal Investigation, in so far as they concerned alleged criminal acts committed in Germany. The German investigative authorities decrypted and sifted through the transferred data and conducted further investigative measures to identify the senders and recipients of the text messages exchanged over EncroChat.

On 16 September 2020 the applicant was arrested. During his pre-trial detention all his written correspondence, including letters to and from his legal counsel, was opened by the prison administration and forwarded to the competent public prosecutor's office for monitoring.

On 27 July 2021 the Bremen Regional Court convicted the applicant for drug trafficking as a member of a gang in 26 instances and sentenced him to a prison sentence of twelve years and six months. The court based the conviction mainly on messages exchanged over EncroChat.

The applicant's subsequent appeal on points of law was rejected by the Federal Court of Justice on 7 December 2022, and on 28 April 2025 the Federal Constitutional Court declined to admit the applicant's constitutional complaint for adjudication (2 BvR 64/23).

Invoking Articles 6 § 1 and 8 of the Convention, the applicant complained that the German courts had used the illegally obtained private communication data as main evidence for his conviction and that the technical details of the retrieval of EncroChat user data were not shared with him. The applicant further complained under Article 6 § 3 (c) of the Convention that his written correspondence with his legal counsel was monitored, while he was in pre-trial detention.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's right to respect for his private life or correspondence, within the meaning of Article 8 § 1 of the Convention (compare *Big Brother Watch and Others v. the United Kingdom* [GC], nos. 58170/13 and 2 others, §§ 495-496, 25 May 2021; *Van Vondel v. the Netherlands*, no. 38258/03, § 49, 25 October 2007; *Copland v. the United Kingdom*, no. 62617/00, § 43, ECHR 2007-I; and *Malone v. the United Kingdom*, 2 August 1984, § 64, Series A no. 82)?

In particular, did the use of the EncroChat user data by the German courts and authorities in the criminal proceedings constitute an interference with the applicant's right to respect for his private life or correspondence?

If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 of the Convention?

2. In view of the use of the EncroChat user data by the German courts and authorities in the criminal proceedings, did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention and did he have a possibility to examine the authenticity and quality of the electronic evidence (compare *Yüksel Yalçınkaya v. Türkiye* [GC], no. 15669/20, §§ 302-308, 344-345, 26 September 2023)?

3. Was the applicant able to communicate confidentially with his lawyer as required by Article 6 § 3 (c) of the Convention (compare *S. v. Switzerland*, 28 November 1991, § 48, Series A no. 220; *Rybacki v. Poland*, no. 52479/99, § 56, 13 January 2009; *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, §§ 635-647, 25 July 2013; and *Moroz v. Ukraine*, no. 5187/07, § 69, 2 March 2017)?