



# A Silver path: ideas for improving lawful sharing of cybercrime evidence with law enforcement

- Karine e Silva Dec 6, 2017



BotLeg Project

BotLeg

What would do...

...if it could help  
solve a crime...

How does this influence  
botnet mitigation?

- Data protection
- Due process
- Search for the truth

# On a silver platter

Exclusionary rule: suppression of illegally obtained evidence

Human dignity

ECHR *Khan v. UK*: illegally obtained evidence may not lead to an unfair trial

○ *Probative value*



Trial-fairness test: if the data can be *contradicted*, is not the *sole basis* for the conviction, is *reliable*, and does not emanate from *coercion*

# The broader picture

Issues of legitimacy and the promotion  
of an undemocratic rule of law

# No immunity

Data protection violations give rise to liability: GDPR

# A path to legality

A task in the public interest (Art. 6(1)(e))  
– can justify the sharing

# Obstacles to the use of art. 6(1)(e)

Recital 45: national implementation



Thank you  
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