NSA HELPS GERMAN DOMESTIC INTELLIGENCE AGENCY

XKeyscore - the document

Document pertaining to the agreement between the NSA and Germany's domestic intelligence agency BfV

VON | 26. August 2015 - 18:09 Uhr

Lesen Sie hier die deutsche Version des Artikels

The following document contains the original English text of an agreement between the National Security Agency, the German foreign intelligence agency BND and the German domestic intelligence agency BfV. It was signed in April 2013 by all three agencies. The purpose of the agreement is to define the conditions under which the BfV was given access to the NSA's XKeyscore software . (The BND is part of the agreement in name only as this agency historically served as the primary point of contact between the NSA and German intelligence agencies.)

The arrangement has never before been made public. We had to determine if it was justified to publish the entire text of the document.

We are documenting this agreement because it proves what exactly German intelligence agencies give to the NSA in exchange for technical support.

We are documenting the agreement because we believe it potentially violates the fundamental rights of German citizens and that the danger of such violations remains clear and present.

And we are also documenting this agreement because it presumably serves as an example for other such agreements that have not yet come to light -- agreements forged between agencies without providing detailed information to the Parliamentary Control Panel, thus forestalling the possibility of a debate in the political or public sphere. Political responsibility for the deal thus remains obscure.

SOFTWARE GEGEN DATEN

Interne Dokumente belegen, dass der Verfassungsschutz vom amerikanischen Geheimdienst NSA die begehrte Spionagesoftware XKeyscore bekam. Dafür versprachen die Verfassungsschützer, so viele Daten aus deutschen G-10-Überwachungsmaßnahmen an die NSA zu liefern, wie möglich.

Lesen Sie dazu:

Der Datendeal: Was Verfassungsschutz und NSA miteinander verabredeten – was Parlamentarier und Datenschützer dazu sagen

Read the english version here: A Dubious Deal with the NSA

Dokument: Die Übereinkunft zwischen Verfassungsschutz und NSA im Wortlaut

Read the english version here: XKeyscore - the document

Die Software: Der Datenknacker "Poseidon" findet jedes Passwort

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The following abbreviations are used in the document:

S – secret
SI – SigInt, Signals Intelligence
COMINT – Communication Intelligence
REL TO – release to
FOUO – for official use only
U – unclassified

The document:

SECRET/SI/REL TO USA, DEU

(S/SI) Terms of Reference between the Bundesnachrichtendienst Sigint Department and the Bundesamt für Verfassungsschutz of the Federal Republic of Germany and the United States National Security Agency for the XKeyscore Computer Network Exploitation Software

I. (U) Purpose

A (S/SI) This Terms of Reference (TOR) is entered into between the Bundesnachrichtendienst (BND) and the Bundesamt für Verfassungsschutz (BfV) of the Federal Republic of Germany and the National Security Agency (NSA) of the United States of America for the purpose of establishing certain obligations for the BND, the BfV and the NSA. It delineates an agreement made in June 2012 to provision the BfV, through the BND, with the NSA-developed XKeyscore computer network exploitation software to improve the BfV's processing analytic capability to encounter extremist threats and, to the maximum extent possible, share all data relevant to NSA's mission.

B (U) Rights to an invention provided under this TOR shall be governed by the treaty between the U.S. and the Federal Republic of Germany, entitled Interchange of Patent Rights and Technical Information for Defense Purposes, signed January 4, 1956.

C (U) This TOR is not intended to create any legally enforceable rights and shall not be construed to be either an international agreement or a legally binding instrument according to international law.

II. (U) Software Description

A (S/SI) XKeyscore is a computer network exploitation system that combines high-speed filtering with Sigint Development (Sigdev). XKeyscore performs filtering and selection to enable analysts to quickly find information they need based on what they already know. It also performs Sigdev functions such as target development to allow analysts to discover new sources of information.

III. (U) Responsibilities

A (U) NSA will:

1. (S/SI) Provide the BND with XKeyscore software with the understanding that this software will be transferred to the BfV.

2. (S/SI) Collaborate with the BND and the BfV on analytic methodologies and provide support for complex problems with the software.

B (U) BND will:

1. (U/FOUO) Provide system installation, operations, maintenance and training support to the BfV.

2. (U/FOUO) Agree that, absent the prior written authorization of the NSA, it will not export, re-export, or transfer any technical information or equipment regarding XKeyscore that is furnished under this TOR.

C (U) BfV will:

1. (S/REL) Be responsible for all costs related to the acquisition of the necessary hardware and software necessary to successfully implement the XKeyscore software as a processing and analysis solution.

2. (U/FOUO) Agree that, absent the prior written authorization of the NSA, it will not export, re-export, or transfer any technical information or equipment regarding XKeyscore that is furnished under this TOR.

3. (U/FOUO) Utilize XKeyscore in a manner consistent with German law and in a manner reasonably likely not to result in the targeting of U.S. persons. The term U.S. persons includes U.S. citizens, an alien lawfully admitted for permanent residence in the U.S., unincorporated groups and associations a substantial number of the members of which are U.S. citizens or resident aliens, or corporations incorporated in the U.S., including U.S. flag nongovernmental aircraft or vessels, but not including those entities which are openly acknowledged by a foreign government or governments to be directed and controlled by them.

4. (S/SI) Ensure that the information processed via XKeyscore will not be used in a judical or administrative proceeding that is based solely on activities that if conducted by a United States person would be protected by the United States Constitution and Amendments thereto and is in accordance with German law.

5. (U/FOUO) To the maximum extent possible share all data relevant to NSA's mission.

IV. (U) Review and amendments

A (S/SI) The BND, the BfV and the NSA agree that the parties through mutual discussion, cooperation or separate agreement shall resolve all disputes or disagreements concerning this TOR. The parties agree that they will not attempt to enforce the terms of this TOR in any domestic, foreign, third party or international court or tribunal, nor will they refer disputes or disagreements for resolution in accordance with any international or third party law or procedure.

B (S/SI) This TOR constitutes the entire agreement between the BND, the BfV and NSA to implement the support for the XKeyscore software. Modifications to this TOR shall not be valid unless agreed to in writing by the parties. This TOR shall be classified SECRET/ COMINT by all three parties. The BND, the BfV and the NSA agree that no third party shall be made aware of this TOR without the express written consent oft he other parties.

C (S/SI) This TOR shall be become affective as of the date of the last signature and will be reviewed at least every two years. It may be modified only by mutual written consent of the parties. Termination shall be by mutual agreement in writing. This document may also be terminated uniliterally by either party uponwritten notice to the other parties via certified mail.

V. (U) Funding

A (U) While no consequential costs are expected, each party will bear all unexpectedly occurring costs by this TOR for the respective party.

VI. (U) Points of contact

(S/SI) The NSA point of contact for this agreement is the Technical Liaison Manager. The BND point of contact is the XKeyscore Liaison Manager. The BfV point of contact is the Head of the Lawfull Interception Group.

In whitness wherefor each of the parties mutually agrees to the above and has executed with the full intention of being bound thereby.

VII. (U) Signatures

For the Bundesnachrichtendienst
Pauland, SIGINT Director, 08.04.2013

For the National Security Agency
(unleserlich), SIGINT Director, 26.04.2013

For the Bundesamt für Verfassungsschutz
(unleserlich), BfV Director, 05.04.2013