



# General Assembly

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## Sixty-ninth session

### Third Committee

Agenda item 68 (b)

**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Argentina, Austria, Brazil, Bulgaria, Costa Rica, Croatia, France, Germany, Greece, Guatemala, Iceland, Ireland, Liechtenstein, Luxembourg, Mexico, Netherlands, Nicaragua, Norway, Paraguay, Peru, Poland, Portugal, Russian Federation, Slovenia, Spain, Switzerland and Uruguay: draft resolution**

### **The right to privacy in the digital age**

*The General Assembly,*

*Reaffirming* the purposes and principles of the Charter of the United Nations,

*Reaffirming also* the human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights<sup>1</sup> and relevant international human rights treaties, including the International Covenant on Civil and Political Rights<sup>2</sup> and the International Covenant on Economic, Social and Cultural Rights,<sup>2</sup>

*Reaffirming further* the Vienna Declaration and Programme of Action,<sup>3</sup>

*Recalling* its resolution 68/167 of 18 December 2013 on the right to privacy in the digital age,

*Welcoming* the report of the Office of the United Nations High Commissioner for Human Rights on the right to privacy in the digital age,<sup>4</sup> and recalling the panel discussion on the right to privacy in the digital age held during the twenty-seventh session of the Human Rights Council,

*Welcoming also* Human Rights Council resolution 26/13 of 26 June 2014 on the promotion, protection and enjoyment of human rights on the Internet,<sup>5</sup>

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<sup>1</sup> Resolution 217 A (III).

<sup>2</sup> See resolution 2200 A (XXI), annex.

<sup>3</sup> [A/CONF.157/24](#) (Part I), chap. III.

<sup>4</sup> [A/HRC/27/37](#).

<sup>5</sup> See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53 (A/69/53)*, chap. V, sect. A.



*Welcoming further* the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism<sup>6</sup> and the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,<sup>7</sup>

*Noting with appreciation* General Comment No. 16 of the Human Rights Committee on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation, while also noting the vast technological leaps that have taken place since its adoption,

*Recognizing* the need for further discussion and in-depth study of issues relating to the promotion and protection of the right to privacy in the digital age and to procedural safeguards, effective oversight and remedies, with a view to further practical guidance, grounded in international human rights law, on the principles of necessity, proportionality and legitimacy,

*Noting* the holding of the Global Multi-stakeholder Meeting on the Future of Internet Governance, “NETmundial”, held in São Paulo, Brazil, on 23 and 24 April 2014, taking note of the outcome of that meeting, which reiterated, inter alia, the need for human rights to underpin Internet governance and that the rights that people have offline must also be protected online, and recognizing that effectively addressing the challenges relating to the right to privacy in the context of modern communications technology will require an ongoing, concerted multi-stakeholder engagement,

*Noting also* that the rapid pace of technological development enables individuals all over the world to use new information and communication technologies and at the same time enhances the capacity of governments, companies and individuals to undertake surveillance, interception and data collection, which may violate or abuse human rights, in particular the right to privacy, as set out in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, and is therefore an issue of increasing concern,

*Reaffirming* the human right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, and recognizing that the exercise of the right to privacy is important for the realization of the right to freedom of expression and to hold opinions without interference, and is one of the foundations of a democratic society,

*Stressing* the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information and democratic participation,

*Concerned* that other human rights, such as the right to freedom of opinion and expression, the right to seek, receive and impart information, the right to freedom of peaceful assembly and association and the right to life, may also be affected by individual or mass surveillance, the interception of digital communications and the collection of personal data, and highlighting the need to further consider the linkages between mass surveillance and its effects on other human rights,

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<sup>6</sup> A/69/397.

<sup>7</sup> A/HRC/23/40 and Corr.1.

*Emphasizing* that unlawful or arbitrary surveillance and/or interception of communications, as well as unlawful or arbitrary collection of personal data, including data about communications, known as metadata, as highly intrusive acts, violate the right to privacy, can interfere with freedom of expression and may contradict the tenets of a democratic society, especially when undertaken on a mass scale,

*Noting* that while concerns about public security may justify the gathering and protection of certain sensitive information, States must ensure full compliance with their obligations under international human rights law,

*Noting in particular* that surveillance of digital communications must be conducted on the basis of a legal framework, which must be publicly accessible, clear, precise, comprehensive and non-discriminatory and that any interference with the right to privacy must be necessary and proportionate to the pursuance of legitimate aims and not impair the essence of the right,

*Noting* that surveillance, the interception of digital communications and/or the collection of personal data that involves a State's exercise of power or effective control over communications infrastructure, regardless of its location, may engage its human rights obligations relating to the right to privacy,

*Emphasizing* that the human rights obligations of a State regarding the right to privacy extend to the exercise of its regulatory jurisdiction over private parties that physically control data, regardless of their location,

*Recalling* that private enterprises have a responsibility to respect human rights and to prevent and address the adverse impacts of their activities on human rights, as set out, notably, in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework,<sup>8</sup>

*Deeply concerned* at the negative impact that surveillance and/or interception of communications, including extraterritorial surveillance and/or interception of communications, as well as the collection of personal data, in particular when carried out on a mass scale, may have on the exercise and enjoyment of human rights,

*Reaffirming* that States must ensure that any measures taken to combat terrorism are in compliance with their obligations under international law, in particular international human rights, refugee and humanitarian law,

1. *Reaffirms* the right to privacy, according to which no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, and the right to the protection of the law against such interference, as set out in article 12 of the Universal Declaration of Human Rights<sup>1</sup> and article 17 of the International Covenant on Civil and Political Rights;<sup>2</sup>

2. *Recognizes* the global and open nature of the Internet and the rapid advancement in information and communications technologies as a driving force in accelerating progress towards development in its various forms;

3. *Affirms* that the same rights that people have offline must also be protected online, including the right to privacy;

<sup>8</sup> A/HRC/17/31, annex.

4. *Calls upon* all States:

(a) To respect and protect the right to privacy, including in the context of digital communication;

(b) To take measures to put an end to violations of those rights and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their obligations under international human rights law;

(c) To review their procedures, practices and legislation regarding the surveillance of communications, their interception and the collection of personal data, including mass surveillance, interception and collection, with a view to upholding the right to privacy by ensuring the full and effective implementation of all their obligations under international human rights law;

(d) To establish or maintain existing independent, effective, adequately resourced and impartial judicial, administrative and/or parliamentary domestic oversight mechanisms capable of ensuring transparency, as appropriate, and accountability for State surveillance of communications, their interception and the collection of personal data, including metadata;

(e) To provide individuals whose right to privacy has been violated as a consequence of individual or mass surveillance and/or interception of communications, as well as individual or mass collection and storage of personal data, including metadata, access to effective remedy, without discrimination;

5. *Invites* the Human Rights Council to remain actively seized of the debate, with the purpose of identifying and clarifying principles, standards and best practices regarding the promotion and protection of the right to privacy, and to consider the establishment of a special procedure to that end, including through the creation of a mandate of a Special Rapporteur;

6. *Decides* to remain seized of the matter.

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