

### **Item 3 – General Debate**

16 June 2014

#### **Joint Statement on the right to privacy in the digital age**

Mr. President,

I have the honor to address the Human Rights Council on behalf of Austria, Brazil, Germany, Liechtenstein, Mexico, Norway and Switzerland.

The rapid pace of technological development enables individuals to use new information and communication technologies more broadly, thus enhancing freedom of expression and democratic participation. On the other hand, these technological developments also enhance the capacity of governments, companies and individuals to undertake surveillance, interception and data collection activities, including extraterritorially, which can violate or abuse human rights, in particular the right to privacy.

Against this backdrop, the first resolution on right to privacy in the digital age was adopted by consensus by the UN General Assembly last December, followed by the adoption of a decision by this Council last March. Both affirmed that the same rights that people have offline must also be protected online, including the right to privacy. Both resolutions sent a strong political signal and can be regarded as important landmarks. The unanimous support received from countries of all regions and levels of development was indeed very encouraging and demonstrates that this is a global issue of increasing concern which calls for immediate action.

On 24 and 25 February, 2014, the seminar “The Right to Privacy in the Digital Age” was held at the Palais des Nations, in Geneva, with the participation of representatives from civil society, the private sector, academia and international organizations from different regions. During the discussions, panelists agreed that the right to privacy applies to online activity and communications, and that surveillance, interception, collection and storage of online activity and communications, including extraterritorially, can violate and interfere with the right to privacy. As the UN High

Commissioner for Human Rights cautioned in her opening remarks, such practice “threatens individual rights – including to privacy and to freedom of expression and association – and inhibits the free functioning of a vibrant civil society”.

Panelists also stressed that States need to review their national laws and, where necessary, adopt legislation that both protect the right to privacy and regulate communication surveillance, in accordance with international human rights law. Any limitations to the right to privacy should be provided by law, be necessary and proportional. They must also be transparent and be subject to independent effective oversight. The fact that national laws often do not pose any limits to mass surveillance of foreign nationals and individuals located outside the surveilling state’s territory raises particular concerns. As human rights treaty bodies have repeatedly recognized, international human rights obligations apply without discrimination and extend beyond a state’s territory. Mass surveillance of foreign nationals and extraterritorial surveillance does therefore not occur in a lawless space.

The private sector must be actively engaged with by States and the international community to develop policies that ensure that their conduct is in line with international human rights standards, as well. The experts emphasized that the neutral and universal nature of the internet must be protected. There was agreement that more dialogue and debate on the topic is needed.

Last April, the NETmundial was held in São Paulo, Brazil, gathering thousands of people from governments, the private sector, civil society, technical community, and academia from around the world. The multistakeholder statement adopted called for the protection of the right to privacy, which includes not being subject to arbitrary or unlawful surveillance, collection, treatment and use of personal data.

It also stressed that mass and arbitrary surveillance undermines trust in the Internet, and that collection and processing of personal data by state and non-state actors should be conducted in accordance with international human rights law. It also asked for more dialogue about this topic at the international level, including in the Human Rights Council.

Mr. President,

This Council has an important role to play in promoting and protecting the right to privacy in the digital age. We are looking forward to the report to be presented by the High Commissioner on the issue, and thank her for her engagement in the area. A panel discussion will be organized, next September, with a view to discussing the report, and identifying challenges and good practices. We underscore the importance that the right to privacy remain a priority for the new High Commissioner.

I thank you!