



9 April 2015

Call for applications and checklist for selection and appointment of the Special Rapporteur on the right to privacy

At the 29th session of the UN Human Rights Council (the Council or the HRC), 15 June – 3 July 2015, the President of the Council will appoint the Special Rapporteur on the right to privacy created in Council resolution A/HRC/RES/26/16.¹ The deadline for receipt of nominations is 30 April 2015.

The Council intends the process of selection to ensure that eligible candidates are highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights.² Candidates must have the required expertise and experience in the field of the mandate, must be independent and impartial and show a high level of personal integrity and objectivity.

The process is subject to the general criteria and technical and objective requirements set out in HRC resolution 5/1 and decision 6/102, respectively. Access, the American Civil Liberties Union, Amnesty International, Article 19, the Association for Progressive Communications, Electronic Frontier Foundation, the International Commission of Jurists, and Privacy International, as non-governmental organisations (NGOs) working on the right to privacy, have developed, in this checklist, an outline of qualifications that we believe are relevant to the selection and appointment of this mandate holder. The checklist is intended as an interpretative aid for the criteria and requirements set out in 5/1 and 6/102.

We emphasise that commitment to the universal application of human rights, relevant experience, competence, independence and personal integrity should be obligatory requirements for any individual to be considered an eligible candidate for this mandate. While it is not necessary for a candidate to meet every specification listed below, the strongest candidates should meet a substantial number of them.

This checklist is aimed to support governments, NGOs, academics, relevant professional networks, national human rights institutions and others in the identification of and outreach to highly qualified and independent candidates.

- We call on Governments, NGOs and others, including relevant professional networks, to disseminate information about the vacancy for the Special Rapporteur on the right to privacy widely and encourage the use of this checklist to identify eligible candidates for the vacancy.

¹ Resolution 28/16, 30 March 2015,
<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/Documentation.aspx>

² Resolution 5/1 paragraph 41.

- We urge Governments to consult with civil society so as to ensure that highly qualified candidates apply.
- Similarly, we encourage the Council's Consultative Group and the Council's President to use this checklist in their effort to ensure that only highly qualified and independent candidates are proposed and the best candidate is appointed.

I. Nomination Process

All applicants must submit an application for the mandate through the OHCHR online application system available at: <http://www.ohchr.org/EN/HRBodies/SP/Pages/HRC29.aspx>

The deadline for receipt of nominations by OHCHR is 30 April 2015.

Prospective mandate-holders should be aware that this is a voluntary, unpaid role. They will not receive salary or other financial compensation, except for travel expenses and daily subsistence allowance of 'experts on mission'. The role will require a substantial time commitment from the individual, including readiness to travel and respond to urgent situations, as explained in the checklist.

II. Checklist for selection of candidates for mandate of Special Rapporteur on the right to privacy

Independence, impartiality, personal integrity and objectivity

According to Council Resolution 5/1, 'individuals holding decision-making positions in Government or in any other organisation or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate shall be excluded.'³

At a minimum, this requires independence of prospective mandate holders from any governments, or relevant intergovernmental organisations, or businesses or other entities, that may be subject of a communication or mission within the terms of the Special Rapporteur on the right to privacy's mandate.

Candidates should disclose any past or present links with the executive of governments, businesses, or other entities that might give rise to a conflict of interest. The conflict of interest provision has also been interpreted to mean that candidates are expected to clarify how, if appointed, they would deal with any perceived or actual conflict of interest in relation to governments, inter- governmental organisations, businesses, or non-governmental organisations.

Qualifications and expertise

The Council has adopted technical and objective requirements for candidates eligible for special procedures mandates.⁴

The following checklist is intended as an interpretive aid for those requirements.

³ Resolution 5/1 paragraph 46.

⁴ Decision 6/102.

1. Qualifications (and skills): relevant educational qualifications and equivalent professional experience in the field of human rights.

Checklist:

- A post graduate university degree or equivalent in law, social sciences, or in a discipline directly related to the right to privacy, preferably specialising in international human rights law.
- Academic publications or other published material (articles, studies, reports, research papers or any similar written material demonstrating in-depth knowledge) addressing issues relevant to the right to privacy from a human rights perspective.
- Excellent oral and written communication skills in at least one of the UN working languages (English, French and Spanish). Knowledge of other widely-used or official UN languages, such as Arabic, Chinese or Russian, would also be an asset.
- Extensive experience in public speaking as well as in communicating with relevant stakeholders at senior level, including governments, companies, inter-governmental organisations, national human rights institutions, NGOs, and the media.

2. Relevant expertise: knowledge of international human rights instruments, norms and principles; as well as knowledge of institutional mandates related to the United Nations or other international or regional organisations' work in the area of human rights; proven work experience in the field of human rights.

Checklist:

- Extensive knowledge of international human rights law and standards.
- Several years of progressively responsible work experience in the field of human rights, including substantial experience in promoting and protecting the right to privacy, human rights monitoring, reporting and advocacy.
- Excellent knowledge of the international and regional legal frameworks and case law and current trends relevant to the right to privacy, including its relationship to and importance in ensuring respect for all other human rights and freedoms, as well as of institutional mandates of the UN or other international or regional organisations in this area of human rights.
- Practical experience in promoting and protecting the right to privacy, particularly in the context of new technologies.

3. Established competence: nationally, regionally or internationally recognised competence related to human rights.

Checklist:

- Demonstrated commitment to the universal application of human rights law, standards and values without discrimination.
- Knowledge of laws and practices related to the right to privacy, including data

protection and data retention laws and practices, laws, policies and practices related to the collection and interception of communications for the purposes of security surveillance or criminal investigation, laws, policies and oversight mechanisms regulating the activities of state security agencies and intelligence agencies.

- Recognized knowledge and experience in responding to developments and challenges in the field of the privacy protection, in particular a deep understanding of the impact of new technologies on the right to privacy.
- Experience at national, regional or international level of developing legislation, policies and guidelines on the respect and protection of the right to privacy; as well as of critically analysing existing or proposed laws, policies and practices affecting the enjoyment of the right to privacy, in order to make effective recommendations.
- Experience in interacting with actors whose roles and responsibilities may directly affect the enjoyment of the right to privacy, including:
 - all branches of government (legislative, judiciary, executive);
 - law enforcement and intelligence agencies;
 - relevant regulatory bodies, such as data protection commissioners, ombudspersons and oversight bodies to security and intelligence agencies;
 - public administration and businesses that make intensive use of personal information; and
 - businesses that may enable interference with the right to privacy, including internet and telecommunication service providers and manufacturers of surveillance equipment.
- Proven awareness and understanding of the particular challenges and vulnerabilities of specific persons and groups who experience or suffer disproportionately from violations of their right to privacy.
- Extensive experience and proven commitment to working and/or interacting with civil society, and in interacting with individuals, groups and organisations whose right to privacy may have been violated or restricted.
- Experience in conducting human rights-based research and fact-finding missions.
- Experience in critically analysing information and data, in order to be able to identify trends and make effective recommendations.

4. Flexibility/readiness and availability of time to perform effectively the functions of the mandate and to respond to its requirements, including attending Human Rights Council sessions.

Checklist:

- Willingness and ability to conduct in-country investigations, in all regions of the world, into policies, legislation and practices affecting the right to privacy, and in relation to

specific alleged cases of violation of the right to privacy.

- Preparedness and willingness to devote a substantial amount of time to fulfilling the mandate, which includes undertaking two or three field missions per year; dispatching and responding to communications to and from governments and other stakeholders; preparing reports to the UN Human Rights Council and the UN General Assembly, including annual reports and country mission reports; attending relevant sessions of the Council and the General Assembly; and attending seminars and other meetings.
- Ability to act urgently and efficiently on cases or situations requiring immediate attention.
- A demonstrated commitment to human rights in general, and a commitment to uphold the integrity, objectivity, discretion, independence and impartiality of the mandate.
- A strong and independent personality ready to fulfill the mandate professionally in the face of political pressures.

III. Background information

HRC resolution 5/1 sets general criteria that are of 'paramount importance while nominating, selecting and appointing mandate-holders: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity' (paragraph 39).

HRC decision 6/102 establishes four technical and objective requirements (qualifications, relevant expertise, established competence and flexibility/readiness and availability of time) to be considered in the selection of Special Procedures mandate-holders.

HRC resolution 5/1 excludes as potential mandate-holders individuals holding decision-making positions in Government or in any other organization or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate (paragraph 46).

HRC resolution 5/1 requires that due consideration be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems (paragraph 40).