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The Permanent Mission of Austria presents its compliments to the Office of the High Commissioner for Human Rights and in response to the letter of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 16 January 2015 has the honour to submit in the attachment information concerning the interrelation between the right to freedom of opinion and expression and the right to privacy in the digital domain: ability of individuals and organizations to employ encryption tools and tools to transact and communicate anonymously online.

The Permanent Mission of Austria avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurance of its highest consideration.

Geneva, 24 February 2015



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Interrelation between the right to freedom of opinion and expression and the right to privacy in the digital domain: ability of individuals and organizations to employ encryption tools and tools to transact and communicate anonymously online

Input by Austria

The use of encryption tools as well as the ability to transact and communicate anonymously online are primarily governed by the E-Commerce Act (ECG, BGBl. I Nr. 152/2001) and the Telecommunication Act (TCG, BGBl. I Nr. 70/2003) in Austria. This legislation does not foresee any restrictions on the use of encryption tools or tools to transact and communicate anonymously online.

In the area of anonymous communication and security online, Austria has chosen to refrain from comprehensive regulation by law, but rather tries to raise the awareness and improve the digital literacy of citizens, so that they choose to sufficiently protect their online transactions and communications. The efforts of the Austrian government in this area include the following initiatives:

- "Digital Champion Austria" (www.werdedigital.at)

With support from the European Union, the Austrian Government has appointed a « Digital Champion Austria » who is tasked, together with her team, to support as many people as possible in using the internet safely and responsibly. A website offers a wealth of information, the same as workshops and lectures targeted at different groups (children, youth, university students, seniors etc.).

- "Safer internet" (saferinternet.at)

This is an initiative targeted primarily at children, youth, parents and teachers in order to support them in using the internet safely and responsibly. A website offers information as well as workshops, lectures etc.

- "Internet Ombudsperson" (www.ombudsmann.at)

This is an independent body of the Austrian government, offering information/advice and mediation relating to internet shopping.

- VIBE! AT (www.vibe.at)

This association of internet users was founded in 1999. It aims at raising awareness about the safe and responsible use of the internet, particularly also how to protect one's privacy.

As a general rule, service providers have no obligation to monitor the data stored, transmitted or made available by them (Art. 18(1) ECG). They must provide information which allows for the identification of users only in the following cases:

- upon a domestic court order, for the purpose of investigating an alleged crime (Art. 18(2) ECG);
- upon the order of a domestic administrative body, if such information forms an essential precondition for the fulfilment of the tasks entrusted to this body (Art. 18(3) ECG);

- upon the request of a third party whose rights have allegedly been infringed by the concerned user, and who can prove that such information forms an essential precondition for his/her legal claim (Art. 18(4) ECG).

Thus, the lifting of the anonymity of users by service providers is subject to a thorough test of proportionality and balancing the right to privacy and data protection with other (public) interests.