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## Embassy of the Republic of The Gambia

To: - The Republic of France (Residence)  
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- Permanent Delegation to UNESCO in Paris  
and  
- Permanent Mission to The United Nations  
Office and Other International Organisations  
in Geneva

GEP/UNHR/(100-OB)

The Permanent Mission of the Republic of The Gambia to the United Nations Office and other International Organizations at Geneva presents its compliments to the office of the United Nations High Commissioner for Human Rights and, referring to the latter's Note Verbale captioned: General Assembly Resolution 68/167, « The right to privacy in the digital age », has the honour to submit as requested, the input of the Government of The Gambia with regards to issues addressed in General Assembly resolution 68/167.

The Permanent Mission of the Republic of The Gambia to the United Nations Office and other International Organizations at Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights, the assurances of its highest consideration.



Paris, 15<sup>th</sup> May 2014

United Nations High Commission for  
Human Rights  
(Office of the High Commissioner)  
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PAS (am.)  
Pls see where the original  
document emanates from and kindly  
forward answers.  
28/4/14

REÇU LE  
15 MAI 2014

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**THE REPUBLIC OF THE GAMBIA**  
**ATTORNEY GENERAL'S CHAMBERS**  
**MINISTRY OF JUSTICE**  
**MARINA PARADE**  
**BANJUL**

AG 306/01/Part 8 (127)

24<sup>th</sup> April, 2014

The Permanent Secretary  
Ministry of Foreign Affairs  
Banjul



The Permanent Secretary  
Ministry of Information, Communication Infrastructure  
MDI Road

**THE GENERAL ASSEMBLY RESOLUTION 68/167 "THE RIGHT TO  
PRIVACY" IN A DIGITAL AGE**

Reference is invited to the above mentioned subject sent to this office for legal advice/input by letter dated 6<sup>th</sup> March, 2014 with ref: PA 520/232/01/Part Xiii/ (85-MJB)

The office of the Human Rights Commission is requesting information on the input of the Gambia with regards to the following:

1. What measures have been taken at the national level to ensure respect for the protection of the right to privacy, including the context of digital communication?
2. What measures have been taken to prevent violation of the right to privacy including, ensuring that the relevant national legislation complies with the obligation of member states under international law.

3. What specific measures have been taken to ensure that the procedure, practice and legislation regarding the surveillance of communication, their interception and the collection of personal data are coherent with the obligations of member states under international law?
4. What measures have been taken to establish and maintain independent, effective, domestic, oversight mechanisms, capable of ensuring transparency as appropriate and accountability for state surveillance of communications, their interception and collection of personal data?
5. Any other information on the protection and the promotion of the right to privacy in the context of domestic and extraterritorial surveillance and or interception of digital communications and the collection of personal data?

#### **APPLICABLE LAW**

Section 23 of the 1997 constitution of The Gambia provides for the protection of rights to privacy which includes the protection of correspondence and communication between individuals. The said Conditional Provision of the 1997 Constitution is in line with Article 17 of the United Nations Convention on Civil and Political Rights as it relates to communications.

Section 23 of the 1997 Constitution of the Republic of the Gambia provides:

**"no person shall be subject to interference with the privacy of his or her home, correspondence, communication except in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well being of the country or economic well being of the country, for the protection of health or morals, for the prevention of disorder or crime for the protection of right and freedom of others"**

Rights under international law may be restricted under certain circumstances; provided that the restriction can be justified by law, and in pursuit of a legitimate aim and for the protection of that aim (in overriding public interest) in a democratic society. The restriction provided for under Section 23 serves a legitimate purpose and it falls within the ambit of law.

The collection of data on network subscribers in the Gambia is provided for in the Information and Communication (Amendment) Act 2013, this ensures the protection of individual's national security and intercepting terrorism. Individual interests are considered under the aforesaid Act.

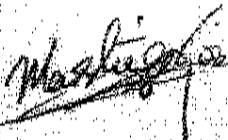
Section 121 (4) (a) Information and Communication (Amendment) Act of 2013 provides that an operator shall:

**Make available all information and communications systems and services as may reasonably be provided to any person wishing to subscribe to the systems or services.**

The purpose of this is to use the data to enhance further development in the areas of telecommunication. Section 139 also provides measures to ensure private communications, these measure safe guards the private communication of individuals.

We wish to however note that no questionnaire was attached to your said letter please. You may wish to forward it for further necessary action.

Kind regards and compliments of the season from the Hon. Solicitor General & Legal Secretary please.



**Martins U Okoi Esq  
Director of Civil Litigation & International Law Department  
For: Solicitor General & Legal Secretary**

**Cc: Hon. Attorney General & Minister of Justice**