

GLOBAL INFORMATION SOCIETY WATCH 2014

Communications surveillance in the digital age

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VENEZUELA

Spying in Venezuela through social networks and emails



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Introduction

In the following report, government measures and legal instruments that have been implemented in Venezuela in connection with the surveillance of communications are analysed. These measures were implemented as a way to ensure national security – but they can affect fundamental rights, such as freedom of expression and the right to privacy of individuals. Some cases involving the violation of human rights during the surveillance of communications are also presented. These have occurred in recent years in Venezuela, and are the result of a series of national economic, political and social events that have had a significant impact on the population, and, according to the government, have jeopardised national security. In addition, some statements by civil society on the measures implemented by the government in the period February to April 2014 are discussed. Actions that citizens can take to prevent access to protected information and to guarantee the privacy of communications are suggested, alongside actions that the state can implement to institutionally coordinate surveillance of communications and to establish clear principles.

Legal framework

Venezuela has a regulatory framework which guarantees fundamental freedom of expression and information rights of people, freedom of association, the right to privacy, honour, reputation and private life, and the right to privacy of communications. These are stipulated in articles 2, 29, 48, 57, 58, 59, 60 and 61 of the constitution.¹ Moreover, there are legal instruments that guarantee the implementation of human rights when it comes to surveillance of communications and the security of citizens, such as: the Law Against Computer Crimes² (Articles 6, 7 and 11); the Law on the Protection of

Privacy of Communication³ (Articles 1 to 9); the Law on Data Messages and Electronic Signatures;⁴ the Law on the Social Responsibility of Radio, Television and Electronic Media, and Telecommunications;⁵ a law called Infogobierno⁶ (Article 25); the Code of Criminal Procedure;⁷ the Law on Science, Technology and Innovation⁸ (Articles 5 and 6); the Law Against Organised Crime and Financing of Terrorism⁹ (Article 30); the Law on National Security;¹⁰ and the Law of the Bolivarian Armed Forces.¹¹ There are also regulatory bodies that are responsible for monitoring communications, such as the National Telecommunications Commission¹² (CONATEL); the Centre for Strategic Security and Protection of the Fatherland¹³ (CESPPA); the Vice Ministry of Social Networks;¹⁴ the Bolivarian National Intelligence Service¹⁵ (SEBIN); the National Telecommunications Company of Venezuela¹⁶ (CANTV); and the National Centre for Forensic Computing¹⁷ (CENIF).

Venezuela, as a member of the Organization of American States (OAS), is committed to supporting agreements and statements such as those made by the OAS Special Rapporteur for Freedom of Expression,¹⁸ mandates from the sixth Summit of the Americas on the use of information and communica-

1 www.tsj.gov.ve/legislacion/constitucion1999.htm

2 www.tsj.gov.ve/legislacion/ledi.htm

3 www.suscerte.gob.ve/media/filer_public/16/c7/16c7e2e2-5acf-4e18-84ea-f9bc5893abc4/1ley-sobre-proteccion-a-la-privacidad-de-las-comunicaciones.pdf

4 www.tsj.gov.ve/legislacion/dmdfe.htm

5 www.conatel.gob.ve/files/leyrs.pdf

6 www.cnti.gob.ve/images/stories/documentos_pdf/leydeinfogobierno.pdf

7 www.mp.gob.ve/LEYES/CODIGO_OPP/index.html

8 www.uc.edu.ve/uc_empresas/LOTIC.pdf

9 www.casai.com.ve/chartisint/internet/VE/es/files/Ley-Organica-Contra-la-Delincuencia-Organizada-y-Financiamiento-al-Terrorismo_tcm1286-533853.pdf

10 www.menpet.gob.ve/repositorio/imagenes/file/normativas/leyes/Ley_Organica_de_Seguridad_de_la_Nacion.pdf

11 www.mindefensa.gob.ve/fundacionmuronto/images/ZonaDescargas/LOFANB.pdf

12 www.conatel.gob.ve

13 espaciopublico.org/index.php/biblioteca/doc_download/491-reglamento-del-cesppa

14 www.minci.gob.ve/el-ministerio

15 es.wikipedia.org/wiki/Servicio_Bolivariano_de_Inteligencia_Nacional

16 www.cantv.com.ve

17 www.suscerte.gob.ve/cenif

18 www.oas.org/es/cidh/expresion/index.asp

tions technologies (ICTs),¹⁹ and the Joint Declaration on Security Programs and their Impact on Freedom of Expression.²⁰ However, it is important to note that in September 2013, Venezuela withdrew²¹ from the Inter-American Commission on Human Rights (IACHR), which does not guarantee the protection of rights in Venezuela under the OAS. However, citizens may use other protective mechanisms, such as the International Court of Justice at the United Nations,²² even though there is a risk that the government ignores its deliberations, such as in the case of judgments on the violations of human rights issued by Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.²³

Analysis

Venezuela in recent years has faced a series of national events that have had a significant impact on Venezuelan society, from the inevitable call for a new presidential election process in 2013 because of the death of President Hugo Chávez, to the different mobilisations of civil society in 2014. These have resulted in a deterioration in the quality of life of Venezuelans, a greater division in society, the violation of human rights, and greater control by the government.

In this area the government is implementing a range of policies included in the Plan of the Nation 2013-2019,²⁴ which seek to deepen the socialist model that President Chávez began. Among the most notable strategic objectives related to the surveillance of communications and national security are the following:

- Strengthening and expanding the Military Intelligence and Counterintelligence for Integrated Homeland Defence system.
- Adapting the legal framework to develop the intelligence and counterintelligence capabilities of the Armed Forces, under the principles of the comprehensive defence of the nation.
- Using citizen information for the security and defence of the country.

- Establishing communications hegemony, including strengthening the regulation and social control of the media and developing a media sector that contributes to the overall defence of the country.
- Strengthening the responsible and critical use of the media as a training tool to promote Bolivarian values.
- Updating and developing the technology platforms for communication and information sharing, ensuring access to timely communication.

Importantly, the Plan of the Nation was approved²⁵ in the National Assembly despite opposition, and has resulted in criticism. This can be seen in a statement²⁶ issued by the Academy of Political and Social Sciences of Venezuela, which said that “the government plan deepens the trend to politicise the activity of the National Armed Forces and merge the civil administration and the military, which is underpinned by an overemphasis of the idea of the safety of the nation.” This has been “aggravated by introducing a permanent state of emergency and increased the militaristic character of government and public administration.”

Moreover, the government in recent years has strengthened the intelligence agencies of the state, consolidated registration systems and other citizen data, and developed legal instruments to regulate social networking and protect its citizens. Here are some examples:

- Creating the Deputy Minister of Social Networks,²⁷ CESPPA, the Counterintelligence Directorate SEBIN,²⁸ and forensic laboratories (CENIF) to support criminal investigations using ICTs.²⁹
- Drawing on the Administrative Identification System for Migration and Aliens³⁰ (SAIME), the data capturing system used by the National Electoral Council,³¹ the Military Register

19 www.summit-americas.org/SIRG/2012/041412/mandates_sc_es.pdf

20 www.oas.org/es/cidh/expresion/showarticle.asp?artID=927&IID=2

21 www.ultimasnoticias.com.ve/noticias/actualidad/politica/venezuela-se-retira-de-la-cidh.aspx

22 www.un.org/es/iccj

23 www.elnuevoherald.com/2014/06/28/1786572/venezuela-deplora-declaraciones.html

24 www.nicolasmaduro.org.ve/programa-patria-venezuela-2013-019/#.U59xO3YvCSp

25 albaciudad.org/LeyPlanPatria

26 goo.gl/UvoUai

27 www.ultimasnoticias.com.ve/noticias/actualidad/politica/gobierno-crea-vice-ministerio-para-redes-sociales.aspx, tn.com.ar/internacional/maduro-creo-un-ministerio-de-redes-sociales_438424

28 The Directorate of Counterintelligence (SEBIN) refers to the Interior Intelligence and Counterintelligence service in Venezuela. This directorate is responsible for the coordination of computer services and coordination of strategic analysis.

29 www.suscerte.gob.ve/cenif, www.taringa.net/posts/noticias/15335864/El-hacker-argentino-que-trabajo-para-Chavez.html

30 www.saime.gob.ve

31 www.cne.gob.ve/web/sistema_electoral/tecnologia_electoral_descripcion.php

for Comprehensive National Defence³² and the National Incident Management System³³ (VenCERT).

- Creating networks of cooperating patriots,³⁴ citizen policing committees³⁵ and Special Brigades to tackle those who promote violence,³⁶ and which manage citizen information to secure the defence of the nation.
- The implementation of the Law on the Use of Social Networks³⁷ and the Law on the Protection of the Privacy of Citizens.³⁸

Venezuela currently finds itself in a difficult political and socioeconomic situation. This has led to significant levels of scarcity and shortages,³⁹ insecurity,⁴⁰ high levels of inflation,⁴¹ censorship of traditional media communications, which has limited access to information,⁴² and social protests. According to the Penal Forum,⁴³ in the period February-April 2014, 41 people were killed, 80 cases of torture occurred and 2,500 arrests were made⁴⁴ during social protests, as reported to the Attorney General's Office. However, in the official report⁴⁵ of the public prosecutor, only one case of torture was recorded.

Given this reality, citizens have used social networks⁴⁶ and email to learn, communicate, organise and report on violations of human rights and undemocratic behaviour when it comes to the Armed Forces re-establishing public order during the protests. At the same time, the internet has been used by civil society and student movements to promote peaceful protests.

Meanwhile, various agencies of the government that ensure national security found a way to identify dissidents on social networks, and used the internet to stay informed about the actions of the opposition. They also implemented a series of actions that affected the privacy of communications of citizens, and conducted computer espionage with the support of the government and the explicit support of CANTV, whose president was also a minister of the government. Moreover, the government increased control of the media, affecting freedom of expression and other media freedoms. Among the most emblematic cases are:

Control of communications

- Taking TV channels off the air without legal formalities, and through making fast and deliberate decisions without any procedure,⁴⁷ as in the case of international channel NTN24.⁴⁸
- Blocking Twitter⁴⁹ and restricting access to content posted using Twitter.⁵⁰
- Blocking and restricting access to websites⁵¹ (twimg.com, pastebin.com, bit.ly, zello.com) and news portals nationwide.⁵²
- Blocking social networks such as Zello's voice application.⁵³
- Censoring social networks.⁵⁴

32 notihoy.com/en-gaceta-oficial-oficializan-aprobacion-de-la-ley-de-registro-y-alistamiento

33 www.suscerte.gob.ve/noticias/2014/06/10/puesto-en-marcha-el-sistema-nacional-de-gestion-de-incidentes-telematicos-vencert

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37 www.noticierodigital.com/2014/05/dip-oficialista-farinas-pide-a-la-an-lesgilar-sobre-uso-de-las-redes-sociales

38 www.noticierodigital.com/2012/12/propondran-ley-de-proteccion-a-la-intimidad-y-la-vida-privada-de-los-ciudadanos

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43 foropenal.com

44 www.lapatilla.com/site/2014/04/30/foro-penal-venezolano-denuncia-ante-fiscalia-80-casos-de-tortura-durante-protestas

45 www.mp.gob.ve/c/document_library/get_file?uid=52da67d8-ae04-4ebd-91de-dbf770de03c&groupId=10136

46 www.elsiglo.com.ve/article/72030/Redes-sociales-en-Venezuela--Del-faranduleo-a-trinchera-informativa-ciudadana

47 www.derechos.org.ve/pw/wp-content/uploads/Informe-final-protestas1.pdf, páginas 82-92

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49 ipsys.org.ve/alerta/caracas-red-twitter-sufrio-bloqueo-parcial-cuando-usuarios-difundian-informacion-sobre-hechos-violentos-registrados-en-el-pais

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51 skatox.com/blog/2014/02

52 www.entornointeligente.com/articulo/2209577/VENEZUELA-Portal-de-noticias-Al-Momento-360-sufre-bloqueo-parcial-16032014

53 www.lapatilla.com/site/2014/02/21/bloquean-aplicacion-zello-en-venezuela-tuits, www.infobae.com/2014/03/06/1548288-zello-la-aplicacion-terrorista-los-estudiantes-venezolanos

54 es.panampost.com/marcela-estrada/2014/02/14/censura-en-venezuela-alcanza-redes-sociales

- Blocking the internet⁵⁵ in the city of San Cristóbal from 19 to 21 February 2014.
- Cancelling television and radio programmes critical of the government.⁵⁶
- Censoring traditional media.⁵⁷
- Blackouts (i.e. cutting electricity).⁵⁸
- Monitoring and analysis of behaviour on social networks⁵⁹ through CESPPA.⁶⁰
- Monitoring of social media by the Deputy Minister of Social Networks, as seen in the case of Minister Delcy Rodríguez.⁶¹
- The purchase of the only television channel critical of the government (GLOBOVISION) by a company linked to the government.⁶²
- The purchase of the newspaper *El Universal*, which was critical of the government.

Interception of communications

- The interception of emails of individual citizens⁶³ to determine their connection with alleged plans to destabilise the government,⁶⁴ authorised by the Attorney General in 2014.
- The interception of telephone calls from various members of the opposition in the National Assembly, such as Juan José Caldera⁶⁵ and María Corina Machado,⁶⁶ during the 2013 presidential election.

- The interception of emails from the president of the Venezuela Awareness Foundation⁶⁷ by the Ministry of Interior and Justice.⁶⁸

Access to the information of users on social networks and web portals

- Accessing and publishing the private details of citizens through the Twitter account @Drodri-guezMinci by the MPPIC⁶⁹ in January 2014.⁷⁰ In this instance, a list that contains data about the holiday destinations abroad of 27 Venezuelans was exchanged between opposition leaders.
- Unauthorised access to the personal Twitter accounts @RBADUEL and @AndreinaBadue.⁷¹
- Attacks on Twitter accounts and websites⁷² that reported on the cancer of President Chávez, such as the account of the journalist Casto Ocando.⁷³
- Real-time monitoring of the computer activities of citizens,⁷⁴ with the authorisation of SEBIN.
- SEBIN targeting hackers who tried illegally to access government computer portals.⁷⁵

Using software to monitor web applications and internet traffic

- According to a report by Miguel Useche,⁷⁶ a study by The Citizen Lab⁷⁷ at the University of Toronto found that the Venezuelan government is a client⁷⁸ of the security company Blue Coat Systems,⁷⁹ and uses the service PacketShaper,⁸⁰

55 www.maduradas.com/se-arrecia-la-dictadura-maduro-busca-bloquear-la-internet-en-venezuela, skatox.com/blog/2014/02

56 www.noticierodigital.com/2014/05/conatel-ordeno-la-suspension-del-programa-radial-plomo-parejo, informe21.com/artes-y-espectaculos/cancelan-el-programa-de-luis-chataing-en-televen

57 apevex.wordpress.com/category/censura-a-medios-de-comunicacion

58 voces.huffingtonpost.com/fernando-nuneznoda/blackout-informativo-en-v_b_4812480.html

59 eltiempo.com.ve/venezuela/redes-sociales/las-redes-en-la-miradel-cesppa/131622

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61 youtu.be/9HqEYaKgyU4, www.maduradas.com/delcy-rodriguez-llama-a-la-oposicion-enemiga-y-le-anuncia-derrota-en-las-redes-sociales

62 www.abc.es/internacional/20131118/abci-globovision-201311181903.html

63 María Corina Machado (former deputy), Diego Arria (former IDB director), Pedro Burelli (former PDVSA director), among others.

64 www.noticias24.com/venezuela/noticia/241035/luisa-ortega-diaz-aseguro-que-todas-las-personas-denunciadas-por-jorge-rodriguez-seran-investigadas/cç, www.noticias24.com/venezuela/noticia/240859/alto-mando-politico-muestra-evidencias-que-vinculan-a-politicos-y-empresarios-en-un-plan-macabro, www.noticias24.com/venezuela/noticia/240876/en-fotos-presentan-correos-electronicos-que-muestran-golpe-militar-contra-nicolas-maduro, www.lapatilla.com/site/2014/05/30/la-fiscalia-admite-que-el-sebin-espia-a-maria-corina-machado

65 zdenkoseligo.blogspot.com/2012/09/sobre-la-grabacion-del-diputado-caldera.html

66 www.notitarde.com/Seccion/Espionaje-telefonico-denuncia-Maria-Corina-Machado/2011/11/28/79239

67 www.lapatilla.com/site/2011/06/16/cubanos-realizan-espionaje-digital-en-venezuela

68 El Ministro Jesse Chacón en el 2006 admitió públicamente que la organización era blanco de espionaje electrónico

69 Ministry of Information and Communications.

70 www.ifex.org/venezuela/2014/01/10/intimidacion_ministra_comunicacion/es

71 resistencia58.wordpress.com/2014/06/21/comunicado-de-la-familia-baduel-ante-ataques-de-hacker

72 www.lapatilla.com/site/2011/10/01/la-patilla-informa-a-sus-lectores-sobre-ataque-a-su-plataforma

73 runrun.es/runrunes/26882/%C2%BFhackeo-majunche-pero-con-billete-y-tecnologia-china.html

74 <https://adribosch.wordpress.com/2013/01/31/venezuela-sebin-usa-hackers-para-violar-la-privacidad-de-los-ciudadanos>

75 www.noticias24.com/venezuela/noticia/150427/sebin-combate-los-hackers-que-intentan-vulnerar-el-orden-institucional-en-venezuela

76 skatox.com/blog/2014/02/23/diminucion-de-la-libertad-de-la-informacion-en-la-red-en-venezuela

77 <https://citizenlab.org>

78 skatox.com/blog/images/2014/02/planetbluecoat.jpg

79 <https://www.bluecoat.com>

80 Cloud-based monitoring for web applications and network devices, with the capability to control unwanted traffic service in real time, allowing for the filtering of applications by category. www.bluecoat.com/sites/default/files/documents/files/PacketShaper_Application_List.c.pdf

which allows more control in the monitoring of internet traffic and web applications.

Given these government actions, citizens and various national and international organisations have warned of violations of human rights, the privacy of communications of citizens, the freedom of speech and internet neutrality. These include:

- A communiqué⁸¹ issued by the free software communities of Venezuela in favour of freedom of speech and network neutrality in Venezuela.
- A statement⁸² issued by organisations in the Forum for Life⁸³ pointing out serious human rights violations in Venezuela, to the criminalisation of social protest, to the systematic harassment of journalists and media, among others.
- Complaints by MCM⁸⁴ to the National Office in which it claims to be a victim of identity theft, computer espionage, telephonic espionage,⁸⁵ eavesdropping and forgery.
- Complaints by Pedro Burelli⁸⁶ before a court in the state of California, in the United States, in which he requested an independent investigation of the content of intercepted emails implicating him in an alleged assassination attempt in 2014.
- Reporters Without Borders (RSF) warning of internet censorship and access to social networks in Venezuela by CONATEL, which represents a decline in freedom of expression in Latin America.⁸⁷

- A report⁸⁸ issued by civil society organisations where human rights⁸⁹ violations in the period February-April 2014 in Venezuela are detailed. Cases of arbitrary arrests and violations of due process, violations of freedom of expression and attacks on journalists and others are presented in this report.

Conclusions

- In December 2013, a new government plan that seeks to strengthen the defence of the nation – among other things by increasing intelligence and counterintelligence systems where the collating of information on citizens is a fundamental component – was started. This included monitoring the media.
- The events between February and April 2014 were a challenge for the government. During civil society protests undemocratic acts were committed under the pretext of defending national security. These included violations of human rights, the violation of the privacy of the communications of citizens, the violation of freedom of expression and opinion, and blocking the internet, among others. In this context, social networks and email became essential to share any information that the state media chose not to report on, and the private media was skewed by self-censorship.
- During this period the intelligence agencies in the government increased measures that were aimed at preventing the diffusion, dissemination and publication of content dealing with the protests on social media sites and through the traditional media. However, citizens found ways to denounce abuses by the armed forces through initiatives such as the “SOS Venezuela”⁹⁰ campaign that gave international visibility to the abuses. Regulators blocked internet communications, Twitter, Zello, web pages and news portals, as well as monitored and analysed the behaviour of social networks as a way to neutralise the organisation of so-

81 skatox.com/blog/2014/02

82 www.derechos.org/ve/2014/02/24/organizaciones-sociales-y-deddh-de-venezuela-difunden-accion-urgente-ante-situacion-del-pais

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84 www.lapatilla.com/site/2014/05/29/maria-corina-machado-denunciara-ante-la-fiscalia-infamia-en-su-contra

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88 www.derechos.org/ve/wp-content/uploads/Informe-final-protestas1.pdf

89 Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA) y de la Comisión Inter-Institucional de Derechos Humanos de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia, Espacio Público, Foro Penal Venezolano, Asociación Civil Justicia, Solidaridad y Paz (FUNPAZ) del estado Lara, Escuela de Derecho de la Universidad Rafael Urdaneta, la Comisión de Derechos Humanos del Colegio de Abogados del estado Zulia, Centro de Derechos Humanos de la Universidad Católica Andrés Bello (CDH-UCAB), el Observatorio Venezolano de Conflictividad Social (OVCS).

90 <https://www.youtube.com/watch?v=RyOiafOSZKk>

cial movements and the flow of information content against the government. According to journalist Fernando Nunez Noda,⁹¹ intelligence agencies promoted “espionage, lifted records and monitored topics that are inconvenient to those in power,” particularly CESPPA. These actions reveal how the government has established mechanisms and defined strategies for surveillance of communications and to prevent the flow of information through social networks that allow citizens to be informed about events of national impact, and which can undermine national security.

- Importantly, the cases presented, such as intercepting emails, phone calls, and Twitter communications of opposition leaders, among others, reflect a kind of political espionage that might be going on in Venezuela, and could lead to the criminal liability of the actors involved. This includes cases of illegal access to and publication of the data and private information of users of social networks, websites and computer systems. Many of the reported cases were managed by government agencies without due process or the respective court orders to record and disseminate citizen information. This violates the rights to privacy, honour and reputation in the communications of Venezuelans.

Given the above, one could conclude that the government has mechanisms for intelligence espionage, found both in political and technical bodies that aim to neutralise and defeat plans that seek to destabilise the nation, as conceptualised in the Homeland Plan 2013-2019. The warnings by civil society and national and international organisations about potential violations that occur in Venezuela are an indicator that citizens are not involved sufficiently in the work of state agencies and public authorities.⁹² The guarantees necessary for the protection and defence of human rights and for the surveillance of communications, such as due process, proportionality, a competent and impartial judiciary, transparency and integrity of communications and systems have not been secured.

Action steps

Government:

- Ensure the independence of public powers and respect for the legal framework when it comes to restrictions on the right to privacy of citizens, and ensure that the collection and use of personal information is clearly authorised by law.
- Encourage dialogue to increase awareness of the implementation of the Plan of the Nation 2013-2019 and its implications for the surveillance of communications.
- Ensure that actions related to the security of the state and the agencies responsible for communications do not violate human rights during the surveillance of citizens.
- Establish mechanisms for independent oversight bodies to ensure transparency in the surveillance of communications.
- Ensure state sovereignty and national security without violating the fundamental rights of citizens.⁹³
- Avoid practices that promote attacks on, threats to and the defamation of internet users.
- Review the nature of intelligence agencies like CESPPA that may be violating the constitutional order and promoting censorship based on the criteria of ensuring the safety and defence of the nation.

Citizens and organisations:

- Establish mechanisms to document and organise cases where surveillance violates the rights of citizens, and present these cases to public protectors, both domestic and international.
- Use applications and methods to ensure that the internet is not blocked.
- Be vigilant about the veracity of the content disseminated through social networks in order to ensure timely and accurate information.

91 www.laverdad.com/politica/44878-un-ente-oficial-para-espiar-twitter.html

92 chile.embajada.gob.ve/index.php?option=com_content&view=article&id=84%3Apoderes-publicos&catid=1%3Acontenido-embajada&Itemid=98&lang=es

93 The freedom of expression and information, freedom of association, right to privacy, honour, reputation and private life, and right to privacy of communications.