

ACCESS TO PUBLIC INFORMATION: STRENGTHENING DEMOCRACY^{1/}

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc.4698/07 corr. 1), on the status of implementation of resolution AG/RES. 2252 (XXXVI-O/06), “Access to Public Information: Strengthening Democracy”;

CONSIDERING that Article 13 of the American Convention on Human Rights provides that “[e]veryone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice”;

CONSIDERING ALSO that Article 19 of the Universal Declaration of Human Rights includes the right “to seek, receive and impart information and ideas through any media and regardless of frontiers”;

RECALLING that the Plan of Action of the Third Summit of the Americas (Quebec City, 2001) indicates that governments will ensure that national legislation is applied equitably to all, respecting freedom of expression and access to public information by all citizens;

EMPHASIZING that Article 4 of the Inter-American Democratic Charter states that transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy;

NOTING that, in the Declaration of Nuevo León, the Heads of State and Government affirmed that access to information held by the state, subject to constitutional and legal norms, including those on privacy and confidentiality, is an indispensable condition for citizen participation and promotes effective respect for human rights, and, in that connection, that they are committed to providing the legal and regulatory framework and the structures and conditions required to guarantee the right of access to public information;

TAKING INTO ACCOUNT the adoption of the Declaration of Santiago on Democracy and Public Trust: A New Commitment to Good Governance for the Americas [AG/DEC. 31

^{1.} The Bolivarian Republic of Venezuela reaffirms the statement made in the footnote to resolution AG/RES. 2252 (XXXVI-O/06), to the effect that the IACHR should include in the study entrusted to it under operative paragraph 9 of said resolution, taking into account the right of all citizens to seek, receive, and impart information, how the state may guarantee that right to populations that are socially and economically excluded, in the framework of the principles of transparency of information, when that information is disseminated via the media, and on the basis of the right to equality of all individuals under the law.

Along those lines, we underscore the important conclusions and reflections of the special meeting on the right to public information, held on April 28, 2006, within the framework of the OAS, in which it was recognized that the media were responsible for ensuring that citizens receive, without distortions of any type, information provided by the state.

(XXXIII-O/03)], as well as resolution AG/RES. 1960 (XXXIII-O/03), “Program for Democratic Governance in the Americas”;

CONSIDERING that the Inter-American Agency for Cooperation and Development (IACD) has been identifying and facilitating access by member states to e-government practices that facilitate information and communication technology applications in governmental processes;

CONSIDERING ALSO that the General Secretariat has been providing support to member state governments in dealing with the topic of access to public information;

NOTING the work accomplished by the Inter-American Juridical Committee (CJI) on this issue, in particular resolution CJI/RES. 123 (LXX-O/07), “Right to Information,” attached to which is the report titled “Right to Information: Access to and Protection of Information and Personal Data in Electronic Format” (CJI/doc.25/00 rev. 2);

RECOGNIZING that the goal of achieving an informed citizenry must be rendered compatible with other societal aims, such as safeguarding national security, public order, and protection of personal privacy, pursuant to laws passed to that effect;

RECOGNIZING ALSO that democracy is strengthened through full respect for freedom of expression, access to public information, and the free dissemination of ideas, and that all sectors of society, including the media, through the public information they disseminate to citizens, may contribute to a climate of tolerance of all views, foster a culture of peace, and strengthen democratic governance;

TAKING INTO ACCOUNT the important role civil society can play in promoting broad access to public information;

TAKING NOTE of the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR); and of the Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE (Organization for Security and Co-operation in Europe) Representative on Freedom of the Media, the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, and the ACHPR (African Commission on Human and Peoples’ Rights) Special Rapporteur on Freedom of Expression, adopted in 2006;

TAKING NOTE ALSO of the reports of the IACHR Special Rapporteur on Freedom of Expression on the situation of access to information in the Hemisphere for 2003, 2004, 2005, and 2006;

TAKING NOTE FURTHER of the report on the special meeting of the Committee on Juridical and Political Affairs to promote, impart, and exchange experiences and knowledge with respect to access to public information and its relationship with citizen participation, which received input from experts from the states and civil society representatives, held at OAS headquarters on April 28, 2006 (CP/CAJP-2320/06 add. 2); and the Special Meeting on Freedom of Thought and Expression, held on October 27 and 28, 2006, which highlighted recent inter-American jurisprudence on access to public information;

RECALLING initiatives taken by civil society regarding access to public information, in particular, the Declaration of Chapultepec, the Johannesburg Principles, the Lima Principles, and

the Declaration of the SOCIUS Peru 2003: Access to Information, as well as the Regional Forum on Access to Public Information: Challenges to Freedom of Information in the Hemisphere, held in Lima, Peru, on January 20 and 21, 2004; and

RECALLING ALSO that the media, the private sector, and political parties can likewise play an important role in facilitating access by citizens to information held by the states,

RESOLVES:

1. To reaffirm that everyone has the freedom to seek, receive, access, and impart information and that access to public information is a requisite for the very exercise of democracy.

2. To urge member states to respect and promote respect for everyone's access to public information and to promote the adoption of any necessary legislative or other types of provisions to ensure its recognition and effective application.

3. To encourage member states, in keeping with the commitment made in the Declaration of Nuevo León and with due respect for constitutional and legal provisions, to prepare and/or adjust their respective legal and regulatory frameworks, as appropriate, so as to provide the citizenry with broad access to public information.

4. Also to encourage member states, when preparing and/or adjusting their respective legal and regulatory frameworks, as appropriate, to provide civil society with the opportunity to participate in that process; and to urge them, when drafting and/or adapting their national legislation, to take into account clear and transparent exception criteria.

5. To encourage member states to take the necessary measures, through their national legislation and other appropriate means, to make public information available electronically or by any other means that will allow ready access to it.

6. To encourage civil society organizations to make information related to their work available to the public.

7. To instruct the Special Rapporteurship on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) and the Department of State Modernization and Governance of the Secretariat for Political Affairs:

a. To support the efforts of member states that so request in drafting legislation and developing mechanisms in the area of access to public information and citizen participation; and

b. To assist the Permanent Council in the work of the Committee on Juridical and Political Affairs (CAJP) mentioned in operative paragraph 13.a below.

8. To instruct the Department of International Legal Affairs:

a. To prepare a study with recommendations on the subject of access to information and protection of personal data, on the basis of the inputs from the organs of the inter-American system and from civil society, as

well as the preparatory work conducted during the special meeting of the CAJP on the subject; and

- b. To assist the Permanent Council in the work of the CAJP mentioned in operative paragraph 13.a below.

9. To request the Inter-American Juridical Committee to continue to carry out comparative law studies on the protection of personal data, and to update the study “Right to Information: Access to and Protection of Information and Personal Data in Electronic Format,” of 2000, taking into account the diverse viewpoints on the subject, in connection with which it will draw up and distribute to the member states, with due support from the Secretariat, a new questionnaire on the topic.

10. To instruct the Special Rapporteur for Freedom of Expression to continue to include in the Annual Report of the IACHR a report on the situation regarding access to public information in the region.

11. To instruct the IACHR to conduct a study on how the state can guarantee to all citizens the freedom to seek, receive, and impart public information on the basis of the principle of freedom of expression.

12. To instruct the Inter-American Agency for Cooperation and Development (IACD) to identify new resources to support member states’ efforts to facilitate access to public information.

13. To recommend to the Permanent Council that it:

- a. Request the CAJP to prepare a basic document on best practices and the development of common approaches or guidelines for increasing access to public information, on the basis of the report of the aforementioned special meeting and taking into account the report of the Chair of the Permanent Council on the implementation of resolution AG/RES. 2252 (XXXVI-O/06), as well as inputs from the member state delegations, the Special Rapporteurship on Freedom of Expression of the IACHR, the Inter-American Juridical Committee, the Department of International Legal Affairs, the Department of State Modernization and Governance, interested organs, agencies, and entities of the Organization, and civil society representatives; and
- b. Request the General Secretariat to promote seminars, workshops, or other events and activities designed to promote access to public information by citizens and government administrations.

To request the Permanent Council to report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.