

AG/RES. 2121 (XXXV-O/05)

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

(Adopted at the fourth plenary session, held on June 7, 2005)

THE GENERAL ASSEMBLY,

HAVING SEEN the Report of the Chair of the Permanent Council on the Implementation of Resolution AG/RES. 2057 (XXXIV-O/04), "Access to Public Information: Strengthening Democracy" (CP/doc.4025/05), presented on May 11, 2005;

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 freedom "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, held in Quebec City in 2001, indicates that governments will ensure that national legislation is applied equitably to all, respecting freedom of expression and access to public information of 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;

BEARING IN MIND the adoption of the Declaration of Santiago on Democracy and Public Trust: A New Commitment to Good Governance for the Americas [AG/DEC. 31 (XXXIII-O/03)], as well as resolution AG/RES. 1960 (XXXIII-O/03), "Program for Democratic Governance in the Americas";

^{1.} The Bolivarian Republic of Venezuela considers the study entrusted to the Inter-American Commission on Human Rights, on how states can guarantee to all of their citizens the right to seek, receive and disseminate public information, to be of paramount importance. Our Government earnestly requests the Inter-American Commission on Human Rights to place emphasis in its study on how states may guarantee the right of all persons, particularly socially excluded sectors, to receive public information, in the framework of the principle of transparency of information, when that information is disseminated via the media and taking into account the equality of all individuals before the law.

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 Office for the Promotion of Democracy (OPD) has been providing support to member states 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 the document "Right to Information: Access to and Protection of Information and Personal Data in Electronic Format" (CJI/doc.25/00 rev. 1);

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; 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, and the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, adopted on December 6, 2004;

TAKING NOTE ALSO of the reports of the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights on the situation of access to information in the Hemisphere for 2003 and 2004; and

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,

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 the 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 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 facilitate access to such information through electronic or any other means that will allow ready access to public information.

6. To instruct the Special Rapporteurship for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) and the Office for the Promotion of Democracy (OPD):

- 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 preparatory work for the special meeting mentioned in operative paragraph 11.a below.

7. To request the Inter-American Juridical Committee to continue to carry out comparative law studies on the protection of personal information.

8. To instruct the Special Rapporteurship for Freedom of Expression to continue to report on the situation regarding access to public information in the region in the annual report of the IACHR.

9. To instruct the Inter-American Commission on Human Rights to conduct a study on how the state can guarantee all citizens the right to seek, receive, and impart public information on the basis of the principle of freedom of expression.

10. 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.

11. To recommend to the Permanent Council that it:

- a. Convene a special meeting with the participation of experts from the member states and civil society representatives to promote, impart, and exchange experiences and knowledge with respect to access to public information and its relationship with citizen participation;

- b. Request the Committee on Juridical and Political Affairs (CAJP) to prepare, on the basis of the report of the special meeting and taking into account the report of the Chair of the Permanent Council on the implementation of resolution AG/RES. 2057 (XXXIV-O/04), a basic document on best practices and the development of common approaches or guidelines for increasing access to public information; and
- c. Request the General Secretariat to promote seminars, workshops, or other events designed to promote access to public information by citizens and government administrations.

12. To request the Permanent Council to report to the General Assembly at its thirty-sixth 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.