

AG/RES. 2661 (XLI-O/11)

ACCESS TO PUBLIC INFORMATION AND PROTECTION OF PERSONAL DATA

(Provisional version pending revision by the Style Committee)

(Adopted at the fourth plenary session, held on June 7, 2011)

THE GENERAL ASSEMBLY,

RECALLING resolutions AG/RES. 1932 (XXXIII-O/03), AG/RES. 2057 (XXXIV-O/04), AG/RES. 2121 (XXXV-O/05), AG/RES. 2252 (XXXVI-O/06), AG/RES. 2288 (XXXVII-O/07), AG/RES. 2418 (XXXVIII-O/08), and AG/RES. 2514 (XXXIX-O/09), “Access to Public Information: Strengthening Democracy,” and resolution AG/RES. 2607 (XL-O/10) “Model Inter-American Law on Access to Public Information,” and reiterating all the mandates and historical, procedural, legal, political, and substantive considerations contained therein;

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly, as it pertains to the status of compliance with resolutions AG/RES. 2514 (XXXIX-O/09) and AG/RES. 2607 (XL-O/10);

RECALLING the essential role of access to public information in electoral and democratic processes, in state governance, transparency, and anticorruption efforts, in the protection and promotion of human rights, especially the right to freedom of thought and expression, and in the freedom of the press;

REITERATING the vital role of international instruments, including the American Convention on Human Rights, the Universal Declaration of Human Rights, and the Inter-American Democratic Charter, the mandates of the Summits of the Americas, the judgments of the Inter-American Court of Human Rights, and the invaluable work of the General Secretariat, of the Inter-American Juridical Committee, of the Inter-American Commission on Human Rights, including the office of its Rapporteur for Freedom of Thought and Expression, and of civil society, in the promotion and protection of the right to seek, impart, and receive information, as well as the importance of access to public information, and bearing in mind the valuable instruments, jurisprudence, reports, meetings, and documents that have been prepared to this end;

NOTING WITH INTEREST the Model Inter-American Law on Access to Public Information and its Implementation Guide, contained in resolution AG/RES. 2607 (XL-O/10), and taking note of the report of the special meeting of the Committee on Juridical and Political Affairs (CAJP) for examining the member states’ comments on the Model Law and the possibility of designing an Inter-American Program on Access to Public Information, with the participation of the member states, the General Secretariat, and representatives of civil society, held at the headquarters of the Organization of American States (OAS), on December 13, 2010, contained in document CP/CAJP-2938/11;

TAKING NOTE ALSO of the International Seminar for the application of the Model Inter-American Law on Access to Public Information in Mexico and the region, held on March 10-11, in Mexico City organized jointly by the OAS, the Mexican Institute for Access to Information and Data Protection, the Legal Research Institute of the National Autonomous

University of Mexico, and the Mexican Ministry of Foreign Affairs, among others, and having seen its report on conclusions and recommendations contained in document CP/CAJP...”;

CONSIDERING that access to public information, on the one hand, and the protection of personal data, on the other, are fundamental values that must operate in harmony at all times;

CONSIDERING ALSO the growing importance of privacy and the protection of personal data, and the need to encourage and protect crossborder flows of information in the Americas;

BEARING IN MIND the efforts made by states to ensure access to public information and the protection of personal data;

ALSO BEARING IN MIND the efforts of other international and regional bodies (such as OECD, APEC, EU, and the Council of Europe) working in the area of protection of personal data.

TAKING NOTE of the Draft Preliminary Principles and Recommendations on the Protection of Personal Data contained in document CP/CAJP-2921/10 rev. 1, prepared by the Department of International Law, and the comments offered on it by the member states;

RESOLVES:

1. To reaffirm the importance of access to information as an indispensable requirement for democracy and the commitment of the member states to respect and uphold the principle of providing access to governmental information.

2. To encourage the states, in designing, executing, and evaluating their regulations and policies on access to public information, to consider embracing and implementing the Model Inter-American Law on Access to Public Information contained in resolution AG/RES. 2607 (XL-O/10) and its Implementation Guide.

3. To instruct the General Secretariat, through the Department of International Law, to support, with the assistance of civil society, member states' efforts to adopt the legislative and other appropriate measures needed to guarantee access to public information, in particular for the implementation of the Model Law or for continuing to bring themselves into line with it; and the promotion of contacts and exchanges of best practices among the national authorities (Commissioners, Ombudsmen, etc.) responsible for implementing access to public information.

4. To thank the members of the group of experts who participated in drafting the Model Law and its Implementation Guide, under the coordination and at the invitation of the Department of International Law, and to instruct them to continue assisting with activities for states' adoption and implementation of the Model Law.

5. To instruct the Permanent Council to have the Committee on Juridical and Political Affairs (CAJP), prior to the forty-second regular session, consider the preparation of an Inter-American Program on Access to Public Information, based on the contributions made at the special meeting of the CAJP held on December 13, 2010.

6. To encourage member states to hold domestic and regional seminars on the implementation of the Model Inter-American Law on Access to Public Information in its national framework and to provide conclusions and recommendations as a means to help incorporate the

standards of said Model Law into the legal, judicial, and administrative practices of the member states.

7. To instruct the General Secretariat to develop an internal policy and prepare a directive for access to public information within the Organization, in line with the standards followed in other multilateral organizations, and to put it into effect prior to the forty-second session of the General Assembly.

8. To instruct the office of the IACHR's Special Rapporteur for Freedom of Expression to continue including, in the Annual Report of the IACHR, a report on the situation/state of access to public information in the region and its effect on the exercise of the right to freedom of expression.

9. To invite the member states to consider attending the International Conference of Data Protection and Privacy Commissioners, to be held in Mexico City from October 31 to November 2, 2011.

10. To thank the Department of International Law for presenting the Draft Preliminary Principles and Recommendations on the Protection of Personal Data, contained in document CP/CAJP-2921/10 rev. 1, and instruct it to prepare a comparative study of different existing legal regimes, polices, and enforcement mechanisms for the protection of personal data, including domestic legislation, regulation, and self-regulation, with a view to exploring the possibility of a regional framework in the area.

11. To instruct the Inter-American Juridical Committee to present, prior to the forty-second regular session, a document of principles for privacy and personal data protection in the Americas, taking into account both documents described in the preceding paragraph.

12. To instruct the General Secretariat to establish channels of information with other international and regional organizations currently undertaking efforts on the matter of data protection, in order to facilitate the exchange of information and cooperation.

13. To instruct the General Secretariat to identify new resources to support member states' efforts to facilitate access to public information and the protection of personal data and to encourage other donors to make contributions toward that goal.

14. To request the Permanent Council to report to the General Assembly at its forty-second regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.