

AG/RES. 2714 (XLII-O/12)

OFFICIAL PUBLIC DEFENDERS AS A GUARANTEE OF ACCESS TO JUSTICE  
FOR PERSONS IN SITUATIONS OF VULNERABILITY

(Adopted at the second plenary session, held on June 4, 2012)

THE GENERAL ASSEMBLY,

BEARING IN MIND resolution AG/RES. 2656 (XLI-O/11), “Guarantees for Access to Justice: The Role of Official Public Defenders,” adopted on June 7, 2011, in the framework of the forty-first regular session of the General Assembly;

RECALLING that, pursuant to the Charter of the Organization of American States (OAS), the American Declaration of the Rights and Duties of Man, and the American Convention on Human Rights, and bearing in mind all applicable provisions of international human rights law, within their respective spheres of application, human rights and fundamental freedoms must be guaranteed and respected, without distinction of any kind;

RECALLING ALSO that the International Covenant on Civil and Political Rights establishes the obligation of the States Parties to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the Covenant. Article 14 establishes that everyone charged with a criminal offense has a right to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of that right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such cases if he does not have sufficient means to pay for it;

AFFIRMING the universal, indivisible, and interdependent nature of human rights;

AFFIRMING ALSO that the member states have the obligation to respect and guarantee the exercise of the rights recognized in the international treaties to which they are party and in their domestic legislation, removing the obstacles that may impair or limit access to a public defender, in such a way as to ensure full and free access to justice;

UNDERSCORING that Article 8 of the American Convention on Human Rights broadly establishes judicial guarantees;

CONSIDERING that access to justice, as a fundamental right, is also the means of restoring the exercise of rights that have been disregarded or violated and underscores that access to justice is not limited to ensuring admission to a court but applies to the entire process, which must be conducted in keeping with the principles of the rule of law;

BEARING IN MIND:

General Comment No. 32 of the United Nations Human Rights Committee, paragraph 9 of which establishes that access to the administration of justice must be effectively guaranteed in all cases; and

The “Brasilia Regulations Regarding Access to Justice for Vulnerable People,” which are designed to guarantee effective access to justice for vulnerable people, without any discrimination,

so that said persons can make full use of judicial system services, and which, moreover, promote the implementation of public policies designed to guarantee adequate technical-legal counsel for vulnerable people;

UNDERSCORING the work done by official public defenders in a number of countries in the region to defend the fundamental rights of individuals, especially cost-free legal counsel services, which provide simple and timely access to justice for everyone and in particular to people who are especially vulnerable;

TAKING INTO ACCOUNT the vital importance of that service being functionally independent and autonomous;

UNDERSCORING ALSO the work done by inter-American public defenders to protect the rights of victims of human rights violations, under the aegis of the Memorandum of Understanding between the Court and the Inter-American Association of Public Defender Offices (AIDEF) for the *motu proprio* appointment of a public defender who ensures the provision of free legal counsel services to alleged victims, as required, in the processing of contentious cases; and

NOTING WITH IMMENSE SATISFACTION the conclusion of the General Cooperation Agreement between the AIDEF and the OAS in keeping with resolution AG/RES. 2656 (XLI-O/11), thus formalizing cooperation ties between the AIDEF and the OAS with a view to further advancing promotion and protection of international human rights law by giving priority to joint measures aimed at strengthening access to justice for individuals through an autonomous and independent public-defender service. Accordingly, as a result of the mutual cooperation between the two organizations, the OAS will, in the course of this year, deliver two training courses on the organization and operations of the OAS and human rights for members of the AIDEF,

RESOLVES:

1. To affirm that access to justice, as a fundamental right, is also the means of restoring the exercise of rights that have been disregarded or violated.
2. To support the work being done by official public defenders in the states of the Hemisphere, as this constitutes a core aspect for strengthening access to justice and for consolidating democracy.
3. To affirm the fundamental importance of cost-free legal counsel services provided by official public defenders in promoting and protecting the right of access to justice for everyone, particularly those who are especially vulnerable.
4. To reiterate to those member states that already provide free legal counsel to take steps to ensure that official public defenders operate independently.
5. To encourage member states that do not yet have the institution of free legal counsel to consider the possibility of establishing it within the framework of their legal order.
6. To urge member states to foster international cooperation opportunities for sharing experience and best practices in this field.
7. To encourage member states and the organs of the inter-American system to promote agreements regarding courses and training for official public defenders.

8. To request the Permanent Council to hold, in the first quarter of 2013, a special meeting of the OAS Committee on Juridical and Political Affairs for an exchange of best practices and experiences, inviting member states, members of the Inter-American Association of Public Defender Offices (AIDEF), scholars, experts from civil society, and international organizations to attend.

9. To request the OAS General Secretariat to report, through the Department of International Law of the Secretariat for Legal Affairs, on implementation of the mandates in resolution AG/RES. 2656 (XLI-O/11) and to prepare, in the second half of 2013, a compilation of best practices on access to justice and public defenders in the region, based on written input from states on the subject, and including the results of the special meeting to exchange best practices and experiences, to be held in the first quarter of the year.

10. To commend the initiative of holding the Fifth Congress of the Inter-American Association of Public Defender Offices, to take place in Fortaleza, Brazil, from August 15 to 17, 2012, at which national and international experts will offer presentations on the role of the public defender's office in ensuring effective exercise of human rights. This event will give particular attention to progress and challenges in the region as regards implementing the provisions of resolution AG/RES. 2656 (XLI-O/11), "Guarantees for Access to Justice: The Role of Official Public Defenders."

11. To request the Permanent Council to report to the General Assembly at its forty-third regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.