

AG/RES. 2801 (XLIII-O/13)

TOWARD AUTONOMY FOR OFFICIAL PUBLIC DEFENDERS/CRIMINAL AND
CIVIL LEGAL AID PROVIDERS AS A GUARANTEE OF ACCESS TO JUSTICE

(Adopted at the second plenary session, held on June 5, 2013)

THE GENERAL ASSEMBLY,

CONSIDERING that Article 8 of the American Convention on Human Rights broadly establishes judicial guarantees; resolutions AG/RES. 2656 (XLI-O/11) and AG/RES. 2714 (XLII-O/12); the “Brasilia Regulations Regarding Access to Justice for Vulnerable People”; and the universal, indivisible, and interdependent nature of human rights;

AFFIRMING that the member states have an 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;

CONSIDERING that access to justice, as a fundamental right, is also the means of restoring the exercise of rights that have been denied or violated; and underscoring 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;

TAKING INTO ACCOUNT the vital importance that the services of official public defenders/criminal and civil legal aid providers be functionally and technically independent and autonomous; and

UNDERSCORING:

The conclusions of the special meeting on the exchange of best practices and experiences with the work of public defenders held in the Committee on Juridical and Political Affairs, on March 7, 2013;

The memorandum of understanding between the Inter-American Association of Public Defender Offices (AIDEF) and the General Secretariat, through the Executive Secretariat of the Inter-American Commission on Human Rights (IACHR), with a view to coordinating their efforts to guarantee and boost access to inter-American justice for alleged victims whose cases are at the merits stage before the IACHR; and

The fruitful work being done by inter-American public defenders to defend the rights of victims of human rights violations under aegis of the memorandum of understanding between AIDEF and the Inter-American Court of Human Rights,

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 denied or violated.
2. To support the work being done by official public defenders/criminal and civil legal aid providers 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 furnished by official public defenders/criminal and civil legal aid providers in promoting and protecting the right of access to justice for everyone, particularly those who are especially vulnerable at all stages of proceedings.
4. To reiterate once again to those member states that already provide free legal counsel to take steps to ensure that official public defenders/criminal and civil legal aid providers are independent and functionally, financially and/or budgetarily, and technically autonomous.
5. To underscore, without prejudice to the diversity of legal systems of each country, the importance of the independence and functional, financial, and/or budgetary autonomy of official public defender, criminal and civil legal aid provider services, as part of member states' efforts to guarantee a public service that is efficient and free from any interference and improper control by other branches of government that might affect its functional autonomy, its mandate being to serve the interests of the person it is defending.
6. To once again 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.
7. To urge member states, where appropriate, to promote the participation of public defenders in the inter-American human rights system, so that the right to a technical defense is exercised and ensured from the very first step in proceedings instituted against a person at the national level to, as applicable, the adoption of a judgment by the Inter-American Court of Human Rights.
8. To urge member states to foster international cooperation opportunities for sharing experience and best practices in this field.
9. To encourage member states and the organs of the inter-American system to promote agreements regarding courses and training for official public defenders/criminal and civil legal aid providers.
10. To request the Permanent Council to hold in the first quarter of 2014 a second special meeting of the Committee on Juridical and Political Affairs for an exchange of best practices and experiences generated by the implementation of resolutions AG/RES. 2656 (XLI-O/11) and AG/RES. 2714 (XLII-O/12), inviting member states and their respective official public legal aid institutions, as well as members of the Inter-American Association of Public Defender Offices , scholars, experts from civil society, and international organizations to attend.

11. To encourage the Department of International Law of the Secretariat for Legal Affairs to prepare a compilation of best practices on access to justice and public defenders in the region, in keeping with operative paragraph 6 of resolution AG/RES. 2656 (XLI-O/11) and operative paragraph 9 of resolution AG/RES. 2714 (XLII-O/12), with the recommendations it deems pertinent with a view to gradually consolidating an autonomous and independent public-defender system in the region.

12. To request the Permanent Council to report to the General Assembly at its forty-fourth 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.