

AG/RES. 2821 (XLIV-O/14)

TOWARD AUTONOMY FOR AND STRENGTHENING OF OFFICIAL PUBLIC DEFENDERS
AS A GUARANTEE OF ACCESS TO JUSTICE

(Adopted at the second plenary session, held on June 4, 2014)

THE GENERAL ASSEMBLY,

CONSIDERING Article 8 of the American Convention on Human Rights, which broadly establishes judicial guarantees; resolutions AG/RES. 2656 (XLI-O/11), AG/RES. 2714 (XLII-O/12), and AG/RES. 2801 (XLII-O/13); the “Brasilia Regulations Regarding Access to Justice for Vulnerable People”; and the universal, indivisible, and interdependent nature of human rights;

AFFIRMING that 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 human right, is also the means of restoring the exercise of rights that have been disregarded 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, financially, and technically independent and autonomous;

UNDERSCORING the conclusions of the special meeting on the exchange of best practices and experiences with the work of public defenders, held in the OAS Committee on Juridical and Political Affairs in 2013 and 2014;

HIGHLIGHTING the fruitful work being done by inter-American public defenders in protecting the rights of victims of human rights violations under the aegis of the Memorandum of Understanding between the Inter-American Association of Public Defender Offices (AIDEF) and the General Secretariat of the Organization of American States (OAS), through the Executive Secretariat of the Inter-American Commission on Human Rights (IACHR), and the Memorandum of Understanding between the AIDEF and the Inter-American Court of Human Rights (I-ACtHR), which instruments were established to coordinate efforts between the AIDEF and international agencies to guarantee and boost access to inter-American justice for alleged victims who lack financial means and legal representation in cases taken to the IACHR and the I-ACtHR;

HIGHLIGHTING ALSO the general cooperation agreement between the General Secretariat of the OAS and the AIDEF to create cooperation mechanisms between the two bodies in areas of common interest, such as promotion and dissemination of international human rights law and the inter-American system; organization of research and exchange of experience; and establishment of forums to facilitate dialogue with networks and actors in the sector with a view to strengthening the

service offered by official public defenders, etc., in whose framework the OAS has imparted numerous training courses for the region's public defenders on the organization and workings of the OAS and human rights, in particular, in Washington, D.C. (May 2012), Argentina (March 2013), and Brazil (August 2013); and

TAKING NOTE of the report on the system of best practices with the issue of access to justice in the Americas, prepared by the Department of International Law of the Secretariat for Legal Affairs pursuant to the mandate of the General Assembly,

RESOLVES:

1. To recognize those member states that have attained functional, financial, administrative, and/or budgetary autonomy, guaranteeing access to justice.

2. 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.

3. To support the work being done by official public defenders in the states of the Hemisphere, which constitutes a core aspect for strengthening access to justice and consolidating democracy.

4. To affirm the fundamental importance of cost-free legal counsel services furnished by official public defenders in promoting and protecting access to justice for everyone, particularly those who are especially vulnerable, at all stages of proceedings.

5. To reiterate once again to those member states that already provide free legal counsel to take steps to ensure that official public defenders have an adequate budget and are independent and functionally, financially and/or budgetarily, and technically autonomous.

6. To underscore, without prejudice to the diversity of the legal systems of each country, the importance of the independence and the functional and financial and/or budgetary autonomy of official public defender services, as part of member states' efforts to guarantee an efficient public service that is free from any interference and improper control by other branches of government that might impair its functional autonomy, and whose mandate is to protect the interests of the person it is defending.

7. 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.

8. To urge member states 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.

9. To encourage states and public defender offices in the region to cooperate with extant international and regional human rights protection mechanisms and instruments, such as those for the prevention of torture and the protection of vulnerable groups, in order to enhance access to justice for the most disadvantaged.

10. To urge member states to foster international cooperation opportunities for sharing experience and best practices in the area of public defender services.

11. To encourage states and the organs of the inter-American system to promote agreements regarding courses and training for official public defenders.

12. To encourage states to implement the Regional Guidelines for Public Defender Systems and Comprehensive Protection for Persons Deprived of Their Liberty, prepared by the (AIDEF), an unprecedented document in the region that is concerned, in particular, with the critical situation of this vulnerable group in the Hemisphere.

13. To request the Permanent Council to hold in the first quarter of 2015 a third special meeting in the Committee on Juridical and Political Affairs in order to exchange best practices and experiences in implementing resolutions AG/RES. 2656 (XLI-O/11), AG/RES. 2714 (XLII-O/12), and AG/RES. 2801 (XLII-O/13), specifically in relation to access to justice and the autonomy of and cooperation among public defender offices in the first quarter of 2015, inviting member states and their respective official public legal aid institutions, as well as members of the AIDEF, scholars, experts from civil society, and international organizations to attend.

14. To request the Permanent Council to report to the General Assembly at its forty-fifth 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.