

AG/RES. 2842 (XLIV-O/14)

ACCESS TO PUBLIC INFORMATION AND PROTECTION OF PERSONAL DATA

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

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2811 (XLIII-O/13), “Access to Public Information and Protection of Personal Data,” and its previous resolutions on that topic; reiterating the background and mandates contained therein; and having seen the Annual Report of the Permanent Council to the General Assembly (AG/doc.XXXX/14) as it pertains to the status of compliance with resolution AG/RES. 2811 (XLIII-O/13);

RECALLING that both access to public information and the protection of personal data are fundamental values that must operate in harmony at all times;

REITERATING the vital role of international instruments in the promotion and protection of access to public information, as well as 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 freedom of the press;

RECALLING that the principle of maximum disclosure is consubstantial to access to public information;

REAFFIRMING the importance of the Model Inter-American Law on Access to Public Information in the promotion of access to public information, as well as the role of member states, the General Secretariat of the Organization of American States, and civil society and other social actors in implementing the Model Law;

TAKING NOTE of the Preliminary Draft Inter-American Program on Access to Public Information (CP/CAJP-3135/13) presented by the Department of International Law at the meeting of the Committee on Juridical and Political Affairs (CAJP) held on April 11, 2013, pursuant to resolution AG/RES. 2727 (XLII-O/12), and of the meeting of the CAJP held on April 3, 2014 to consider that preliminary draft;

NOTING ALSO that the Department of International Law forwarded to the Office of the Special Rapporteur for Freedom of Expression of the IACHR information on national legislations, experiences, and best practices on the issue of access to public information in the region, in accordance with resolution AG/RES. 2811 (XLIII-O/13);

NOTING FURTHER that the General Secretariat, through its Secretariat for Legal Affairs, has accepted an invitation from the Transparency and Access to Information Network (RTA) to participate in the Network as a permanent observer;

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

BEARING IN MIND that the privacy and protection of personal data whose disclosure could harm legitimate rights of its legal bearer is one of the exceptions to access to public information;

RECALLING that according to the terms of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the American Declaration of the Rights and Duties of Man, and the Pact of San José, no one may be the object of arbitrary or illegal interference with his privacy, his family, his home, or his correspondence, and that everyone has the right to the protection of the law against such interference or attacks.

TAKING NOTE that the General Secretariat, through its Department of International Law, has accepted the invitation of the Ibero-American Data Protection Network (RIPD) to participate in the Network as a permanent observer; and

TAKING NOTE ALSO of the comparative study on different existing legal regimes, policies, and enforcement mechanisms for the protection of personal data, including domestic legislation, regulation, and self-regulation (CP/CAJP-3063/12) presented by the Department of International Law; of resolution CJI/RES. 186 (LXXX-O/12), "Proposed Statement of Principles for Privacy and Personal Data Protection in the Americas," presented by the Inter-American Juridical Committee; and of the meeting of the CAJP held on November 13, 2012, with the participation of the Inter-American Juridical Committee, the member states, and the General Secretariat, to analyze the studies received on personal data protection and consider the possibility of a regional framework in this area,

RESOLVES:

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

2. To encourage member 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 of the Organization of American States (OAS), through the Department of International Law, to continue supporting, with the assistance of civil society and other social actors, the efforts of those member states that so request in adopting 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 instruct the Permanent Council, through the Committee on Juridical and Political Affairs (CAJP), to include on its agenda in the last quarter of 2014 the continued consideration of the

Preliminary Draft Inter-American Program on Access to Public Information (CP/CAJP-3135/13) submitted by the Department of International Law pursuant to resolution AG/RES. 2727 (XLII-O/12) and of comments and suggestions offered by member states.

5. To urge member states to continue holding, with the support of the Department of International Law, domestic and regional seminars, such as those organized in Peru (May 2013), Panama (June 2013), and Costa Rica (September 2013), on the implementation of the Model Inter-American Law on Access to Public Information in their national contexts and to provide conclusions and recommendations as a means to help incorporate the standards of said Model Law in the legal, judicial, and administrative practices of the member states.

6. To instruct the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) 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.¹

7. To reaffirm the importance of protecting personal data and of respecting the right to privacy, whereby no one may be the object of arbitrary or illegal interference with his privacy, his family, his home, or his correspondence, together with the right of all persons to the protection of the law against such interference, set forth in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the American Declaration of the Rights and Duties of Man, and the American Convention on Human Rights.

8. To invite member states, when applicable, and the General Secretariat, through its Secretariat for Legal Affairs, in its capacity as a permanent observer, to continue supporting the work of the Transparency and Access to Information Network (RTA) and to participate actively in its activities.

9. To invite member states, when applicable, and the General Secretariat, through its Department of International Law, in its capacity as a permanent observer, to continue supporting the work of the Ibero-American Data Protection Network (RIPD) and to participate actively in meetings of the International Conference of Data Protection and Privacy Commissioners.

10. To instruct the Inter-American Juridical Committee, before the forty-fifth regular session of the General Assembly, to prepare proposals for the CAJP on the different ways in which the protection of personal data can be regulated, including a model law on personal data protection, taking into account international standards in that area.

11. To instruct the General Secretariat and the Inter-American Juridical Committee to continue promoting channels of collaboration with other international and regional organizations currently engaged in efforts in the area of data protection and with national authorities on such matters, in order to facilitate the exchange of information and cooperation.

1. Ecuador wishes to state for the record that it has serious questions as to the legitimacy of, and methods employed by, the Office of the Special Rapporteur for Freedom of Expression.

12. 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.

13. 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.