

AG/RES. 2958 (L-O/20)

STRENGTHENING DEMOCRACY^{1/}

(Adopted at the fourth plenary session, held on October 21, 2020)

THE GENERAL ASSEMBLY,

REAFFIRMING the norms and general principles of international law as well as those contained in the Charter of the Organization of American States (OAS);

AWARE that the Charter of the Organization of American States establishes in its preamble “that representative democracy is an indispensable condition for the stability, peace and development of the region” and that one of the essential purposes of the Organization is “[t]o promote and consolidate representative democracy, with due respect for the principle of nonintervention”;

RECALLING resolution AG/RES. 2931 (XLIX-O/19) and all previous resolutions adopted on this topic;

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2019-October 2020” (AG/doc.5691/20 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP); and

CONSIDERING that the programs, activities, and tasks set out in the resolutions under the purview of the CAJP help to further the essential purposes of the Organization enshrined in the Charter of the Organization of American States,

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

RESOLVES:

1. Antigua and Barbuda considers that the Bolivarian Republic of Venezuela is not a member state of the Organization of American States since, on 27 April 2017, the Government of the Bolivarian Republic of Venezuela properly notified the Secretary-General of its denunciation of the Charter in accordance with Article 143 of the Charter of the Organization of American States and the Charter ceased to be in force with respect to the Bolivarian Republic of Venezuela which ceased to belong to the organization on 27 April 2019.

Antigua and Barbuda did not support resolution CP/RES 1124 (2217/19) of April 9, 2019 which sought to appoint Mr. Gustavo Tarre as the National Assembly’s Representative to the OAS and did not accept the credentials of the officials intending to represent the Bolivarian Republic of Venezuela at the 49th and 50th Regular Sessions of the General Assembly.

Therefore Antigua and Barbuda notifies all member states and the General Secretariat of the Organization of American States that, as it did at the 49th Regular Session of the General Assembly, and until further notice, it will not consider itself bound by any declaration or resolution of the 50th Regular Session of the General Assembly or any future declarations or resolutions of any Council or organ of the Organization that includes the participation of any person or entity purporting to speak for or act on behalf of the Bolivarian Republic of Venezuela and in which 18 votes are attained with the participation of a purported representative of the Bolivarian Republic of Venezuela.

1. To instruct the Permanent Council, the General Secretariat, and the other bodies referred to in Article 53 of the Charter of the Organization of American States (OAS) to continue working on the implementation of the applicable current mandates set out in previous General Assembly resolutions assigned to the Committee on Juridical and Political Affairs, except as stated otherwise in any resolution.

2. To urge member states to continue contributing to the attainment of the objectives established in said resolutions through the development and execution of activities, submission of reports, exchange of information, and adoption of measures and policies, as well as through cooperation, support, and mutual assistance; and to instruct the General Secretariat to provide necessary support to those ends.

xi. Access to Public Information and Protection of Personal Data

RECALLING the mandates of previous OAS General Assembly resolutions on access to public information and the protection of personal data and, in particular, those contained in resolution AG/RES. 2905 (XLVII-O/17), “Strengthening Democracy”;

CONSIDERING that the assembly of the Transparency and Access to Information Network (RTA), meeting in Mexico City on November 12, 2019, declared at its XVIII Gathering that guaranteeing access to public information was a fundamental core issue in a democratic state, conducive to social control, responsible accountability, and promotion of citizen participation for the exercise of good governance. In view of the foregoing, it was emphasized that states needed institutions in place to ensure access to public information and to promote transparency and that these needed to be given independence and resources to enable openness in public management, in order to strengthen public trust in institutions.

CONSIDERING that in 2017 the General Assembly, in resolution AG/RES. 2905 (XLVII-O/17), requested the Department of International Law, in consultation with the focal points for the Inter-American Program on Access to Public Information in the member states and taking into account input from civil society, to identify thematic areas in which it considers it necessary to update or broaden the Model Inter-American Law on Access to Public Information and to forward its findings to the Inter-American Juridical Committee to pursue; and

BEARING IN MIND that the Department of International Law, after holding the aforementioned consultations, prepared and submitted to said body a preliminary draft Model Law 2.0; and, that the Inter-American Juridical Committee, after considering said preliminary draft, decided, by resolution CJI/RES. 255 (XCVI-O/20) of March 6, 2020, to approve the “Proposal on an Inter-American Model Law 2.0 on Access to Public Information” (CJI/doc.607/20) and to refer it “to the General Assembly for due knowledge, consideration, and approval,”

RESOLVES:

1. To urge the governments of the region to support the agencies specialized in access to information and transparency and to consolidate public policies that foster participatory democracy through the effective exercise of this citizen right.

2. To urge the national governments of the region to work together with local governments to ensure that the basic principles that give substance to the right of access to public information are uniform nationwide, regardless of where that right is exercised, without impinging on autonomy at the local level (provincial, state, or municipal) given that access to public information is a human right, as established by the Inter-American Court of Human Rights.

3. To urge the governments of the region to consider as a matter of necessity the nature of access to public information as a human right, even though steps need to be taken to contain the current health emergency, so as to prevent implementation of measures which in practice absolutely nullify the exercise of this right but rather, in the public interest and in the interest of law and order, to promote measures for transparency in the area of access to public information during the health emergency and in particular those related to the pandemic created by the SARS-CoV2 virus (COVID-19) and the protection of other rights such as those related to health, work, and education, among others.

4. To adopt Inter-American Model Law 2.0 on Access to Public Information and to request the Inter-American Juridical Committee and the Department of International Law—the latter in its capacity as technical secretariat to said Committee—to disseminate Model Law 2.0 as widely as possible among the various stakeholders and continue supporting the efforts of member states that so request to adopt or adjust legislation, as appropriate, to ensure access to public information, using Model Law 2.0 as reference.^{2/}

2. The United States recalls that transparency is critical for effective governance and democracy, and that laws ensuring appropriate public access to government information are an essential element of..... transparency whose importance cannot be overstated. However, there is no right of access to information under international human rights law. Moreover, the United States has some concerns about the details of Model Law 2.0 on Access to Public Information, including that it appears to significantly underestimate the practical burdens involved in implementing an information-access program, in ways that could so overburden administrative systems that it would undermine the goal of advancing transparency; that the rather vague provisions proposing application of the model law not only to governmental but also to private entities, including political parties, unions, and NGOs, at least to the extent that they receive public funds, give significant pause in a region where there are a number of countries with a challenging record with respect to the operating space of civil society, and where implementation would raise concerns about privacy and freedom of expression, among other issues; and that various adjustments may be warranted on other aspects of the Model Law 2.0, such as regarding the scope of authorities of the Guarantor Body, and regarding what can be exempted from release, to strike the right balance between transparency and protecting the legitimate interests of the government and of third parties.