

**II IBERO-AMERICAN SUMMIT OF CHIEF JUSTICES OF SUPREME COURT  
AND TRIBUNALS OF JUSTICE**

***II CARACAS DECLARATION***

Caracas, Venezuela, 24 – 26 March, 1999

## Introduction

We, the representatives of the Courts and Tribunals of Justice of Ibero-America have gathered together to evaluate the performance of the actions we committed ourselves to, during the I Summit that took place in the month of March, 1998 in this city of Caracas.

Persuaded by the need to make a follow-up of the performance of commitments made in the I Summit and, compelled in the meeting held on October 1998 by the delegates of the Follow-Up Technical Unit, we concluded to approach as a priority in this opportunity, in view of the information received and the exchange of ideas that took place, topics related to the Independence and Autonomy of the Judiciary; the Fight Against Corruption; Validity, Protection, Promotion and Respect of Human Rights; and Drug Trafficking and its Sequels; enhancing with this meeting, all initiatives in favor of the maintenance of the juridical order aspired by the democratic systems of our nations, assuring with it the respect to judicial activities and decisions, as fundamental premise of the validity of the Rule of Law.

The following conclusions are the result of the agenda submitted to our consideration:

Autonomy and Independence of the Judiciary and Cooperation Between Public Authorities.

### *I. Budgetary Autonomy and Independence*

1. We, the Chief Justices of the Supreme Courts and Tribunals of Justice of Ibero-America, commit ourselves to negotiate the incorporation of constitutional and legal regulations, who will anticipate an important participation of the judicial budgets of our countries in the national budget, and that will also guarantee total autonomy for its planning and execution.
2. The autonomy and independence of the Judiciary will strengthen through the instrumentation of mechanisms allowing for the determination of the efficiency with which the resources of the judicial system are administered, and not only through the establishment of a fixed budgetary allowance.
3. Efficient management of the judicial budget, in its formulation and execution, legitimizes the budgetary autonomy of the Judiciaries. Therefore, greater economic independence will imply a commitment for good management and planning. For that reason, the judicial budget must constitute an effective monitoring and report system, which will be achieved by applying the following criteria:
  - a. **Good Management:** The budgetary system must allow for the establishment of priorities such as case load reduction, and implementation of efficient

economies. The information produced in reference to the budget must help managers in making decisions, establishing the relationship between the assigned resources and the volume of work of each Court.

- b. **Planning:** Annual planning of the judicial budget should provide performance indicators during a cycle of two to three years. This will allow to better determine the needs and to make adjustments of the available resources in order to consider incidental expenses.
  - c. **Report:** Report functions help establish the appropriate structures to manage the administration of the Courts and monitor the number of cases. Information must be reported in a manner that will allow for the transparency of the judicial budget.
  - d. **Control:** Through the use of performance indicators and a periodical review of goals and objectives established for the budget, the correctives of the budgetary system will be established.
4. The Chief Justices of the Supreme Courts and Tribunals of Justice of Ibero-America determine the need to establish a methodology for the analysis of the judicial budgets, taking into account: the corresponding constitutional framework, the proportion of the National Budget as percentage of the Gross Internal Product, the proportion of the Judicial Budget as percentage of the National Budget, the budgetary allowance per Court in relation to the number on case intakes and the exact determination of what is included in the Judicial Budget.
  5. This budgetary autonomy must also be guaranteed in case of eventual general budgetary cuts, always assuring the continuity and the effective administration of justice.
  6. Given the fact, than in the discussions about the judicial budget, it is not possible to limit the debate to the determination of percentages on the Nation's budgetary total, its execution must be regulated in a matter such as the possible dependence on organizations of plural composition, the Judiciary's independence, headed by the Supreme Court of Justice, will not be weakened.

## ***II. Judge Selection and Judicial Stability Mechanisms***

1. We ratify the need to carry out a study of judge selection and judicial stability mechanisms, updating the information received in the Follow-Up Technical Unit.
2. The responsibility related to justice administration deserves *per se* rigorous surveillance mechanisms, to be approached as follows:

- a. Once the civil servant has been appointed as Justice, a follow-up process on his/her performance will be established in the manner summarized as follows:
    - Revision: of the update for the performance of duties.
    - Evaluation: of performance and quality of work.
    - Promotion: after reviewing the results of the two areas mentioned, a recognition must be made for the effort shown, this is to be translated into rank promotion as well as into levels of financial remuneration.
  - b. This process will be strengthened by the activity of the Judicial School of each country. It must guarantee to all civil servants and to rest of the personnel of the justice administration system, their participation in professional improvement courses or in those structured for those aspiring to be promoted.
3. Judicial training must be performed through special organizations, schools of judges, by structuring permanent programs which incorporate the appropriate ethical values that are characteristic of the judge's function.
  4. We agree that the following are the guidelines to create an Educational Center for the Ibero-American Judicial Civil Servant:
    - a. To assist in the education of the Ibero-American judges, paying special attention to the criteria of acquisition of new knowledge on other countries' tools, reason by which its action policy will be directed towards the establishment of the judge's comprehensive education aspect, taking into account relationships in global levels or platforms, through which they will handle large amounts of information, usually unavailable in the performance of their daily duties.
    - b. The efforts of said Center will focus in the reception of the largest as possible amount of information, with the purpose of processing it, obtaining specific and useful conclusions from it, to be subsequently distributed through different means (publications, seminars, courses, Internet).
    - c. It will also structure updating programs and, after gaining recognition as a formal education center, will give specialization and post-graduate courses.
    - d. The Center will be in charge of the relationship with other institutions, such as Courts and Tribunals from other countries, in order to trade information with these organizations, and provide technical assistance for the preparation and investigation of projects outlined at an academic level (seminars,

conferences and others), and will coordinate training programs for justice sector personnel, not necessarily working at Courts and Tribunals.

- e. It will also be in charge of the judge's training in management, being this fundamental and indispensable to achieve a high grade of performance in the qualified performance of decisions. Management training can be basically resumed in the correct use of resources available to the judge,

## **The Fight Against Corruption**

### ***I. Ethics of the Ibero-American Judicial Civil Servant***

1. Based on the principles of confidentiality, loyalty, decorum, order, diligence, wisdom, independence, equality, morality, efficiency, procedural economy, promptness, democratic awareness, fairness, publicity, respect and deference towards the users and vigilance in ensuring the safekeeping of documents, the Chief Justices of Supreme Courts and Tribunals of Ibero-America do forthwith make the following statement of ethical principles:

### **Code of Ethics of the Ibero-American Judicial Civil Servant**

- Canon 1.** Judicial civil servants will act, in the courts and outside same, guided by the search for justice and equity and the desire to reach these goals.
- Canon 2.** Judicial civil servants will always act within the democratic rule of law, which they will promote and defend.
- Canon 3.** Judicial civil servants will at all times preserve their judicial independence and dignity.
- Canon 4.** Judicial civil servants will defend the independence of the judicial branch from any act whose purpose is to do violence to it or discredit it.
- Canon 5.** Judicial civil servants will safeguard at all times the majesty and decorum which their offices and the judicial branch should maintain.
- Canon 6.** When complying with the obligations of their positions, judicial civil servants will not fear public or private criticism of their acts.
- Canon 7.** Judicial civil servants must remain, in any case, impartial with regard to conflicting parties.
- Canon 8.** Judicial civil servants will never allow themselves to be influenced by interests other than those of the justice administration system; neither will they allow other civil servants to be influenced.
- Canon 9.** Judicial civil servants will not use their respective offices for their own private interests or those of other parties.
- Canon 10.** Judicial civil servants will receive, hear, and attend to the parties in conflict in an equitable manner, maintaining precedence of transactions.

- Canon 11.** Judicial civil servants, with their conduct, will preserve the transparency of judicial activities, to promote public confidence in the system of justice, except in those cases in which the law establishes confidentiality.
  - Canon 12.** Judicial civil servants will maintain at all times an honorable, prudent, patient, respectful, courteous, and dignified behavior, in and out of their offices and judicial activities.
  - Canon 13.** Judicial civil servants will be careful of the quality of their acts and of the results of their transactions.
  - Canon 14.** Judicial civil servants will commit themselves with the development of the law and disciplines of knowledge necessary for the judicial activity.
  - Canon 15.** Judicial civil servants will watch over their technical training and will keep informed of the developments in judicial knowledge.
  - Canon 16.** Judicial civil servants will be diligent with the activities they are charged with and will promote efficiency in their offices, to avoid procrastination, delays, and unnecessary public service costs.
  - Canon 17.** Judicial civil servants will ensure prompt and proper attention to the public in their offices and will offer the information requested.
  - Canon 18.** Judicial civil servants will follow the standards of efficiency that might have been appropriately established for the performance of their obligations.
  - Canon 19.** Judicial civil servants will commit themselves to the institutional modernization and strengthening of their offices and the justice system.
- 2. Each Court or Superior Court will take the necessary steps to have the universities incorporate the subject of Ethics in the law schools' programs of study.
  - 3. The scourge of corruption has a scope which transcends the ambit of personal behavior, and its treatment should be assumed in conformity with the social dimensions to which it extends. Consequently, the corresponding judicial protection should be directed mainly toward society's general interest.

### **Validity, promotion, protection and respect of human rights**

#### ***I. Exchange of Jurisprudence***

- 1. The sentences of the national Courts and Tribunals will cover that provided in the instruments for the protection of human rights and in the jurisprudence of the Inter-American Court of Human Rights.
- 2. The exchange of national and inter-American jurisprudence on human rights will be facilitated.

3. The effective application of the rules of due process, included in the American Convention of Human Rights, will be promoted, especially as regards:
  - Respect of procedural periods;
  - Strict observance of norms regarding detention or privation of freedom;
  - Timely handling of judicial recourses; and
  - Strengthening of public defense.
4. National and regional jurisprudence on human rights, organized in a data base, will be freely accessible to interested social sectors through electronic mechanisms such as web sites.
5. The Courts and Supreme Courts express their will to take part in the discussions currently underway regarding the reform process of the Inter-American system of protection of human rights.
6. The Courts and Supreme Courts must assume an active role, using the mechanisms each country has for the de-application of national laws that go against international commitments acquired by the States in human rights matters.
7. The adoption of constitutional reforms, in which the supremacy of international treaties on human rights is recognized, must be promoted.
8. The issues of impunity, lack of procedural celerity and selectivity in the treatment of cases on violations of human rights, although they have been partially overcome, continue to affect the credibility of justice and should be given priority attention by the Courts and Supreme Courts.

## ***II. Cooperation Mechanisms between the Judicial Branch and Nongovernmental Organizations***

1. Give maximum diffusion to Resolution No. 1998/7 of April 3, 1998 of the Commission on Human Rights of the Organization of United Nations, *“On the right and duty of individuals, groups and institutions to promote human rights and fundamental liberties universally recognized”*.
2. Until another mechanism is created, periodic reports will be supplied to the Follow-up Technical Unit with developments achieved in formal and de facto relations between the judicial authorities and nongovernmental organizations, in matters related to the validity, promotion, protection and respect of human rights.
3. The specialized offices or units of the judicial branch in charge of relations with civic organizations (academic, religious, trade and nongovernmental, among others)

will grant priority to the establishment of cooperation mechanisms with said organizations in areas such as promotion and training of legal personnel in matters concerning human rights, coordination of efforts to promote judicial reform processes and the diffusion of jurisprudence on this subject.

4. Links will be established among the specialized offices or units of the judicial branch dedicated to relations with civic organizations, and the nongovernmental regional networks which exist in the field of human rights and judicial reform.

### **Drug Trafficking and Its Sequel**

1. The development of a general instrument to combat drug trafficking and to standardize national procedural systems, covering the typology of the different countries, will be encouraged. Courts and Supreme Courts commit themselves to discussing an agreement project, which will permit its definite approval in the middle term.
2. Study and formulate proposals for the creation of an Ibero-American Court which will hear drug trafficking offenses and those derived from same, identified in the norms generated for this purpose.
3. Establish an Ibero-American Network of Courts and Supreme Courts which will permit the exchange of concrete information on cases which go beyond the national ambit, and the diffusion of documentary contents of comparative legislation on the subject of drug trafficking and its sequels.
4. The development of a set of instructions is proposed, which will contemplate the measures and mechanisms to achieve the effective protection of Ibero-American judges and magistrates who hear drug trafficking cases in their respective countries.
5. Given the supranational nature of drug trafficking and other related criminal activities, the Courts and Supreme Courts agree to the drafting of a comparative study of experiences, legal bases and procedures applied in extradition-related matters.
6. Begin a detailed study of the mechanisms and criteria to confront cross-border activities of drug trafficking and its sequels and, in particular, of the cybernetic crimes which have facilitated and foment the legitimization of capitals and the international flow of electronic funds derived from drug trafficking.
7. Create awareness in the judicial civil servant so that, when solving cases related to drug trafficking and money laundering, he will give precedence to the protection of collective interests, postponing those of individuals.



### **Final Conclusion**

The Courts and Supreme Courts of Justice of Ibero-America, present at this Summit, whereas Caracas has been the seat of our meetings on two occasions, and following the alternating principle, finally recommend studying the possibility that the Organization of Supreme Courts of the Americas absorb the Follow-up Technical Unit, in order to give continuity to the work developed and organize the III Ibero-American Summit of Courts and Supreme Courts of Justice in the city and date agreed upon.