



PARLIAMENTARIANS FOR GLOBAL ACTION
ACTION MONDIALE DES PARLEMENTAIRES

**Conference on Implementing Legislation of the Rome Statute of
the ICC in African Indian Ocean countries**

February 25-26, 2010, National Assembly of the Union of Comoros, Moroni

Summary of Proceedings

The opening session of the conference, chaired by **Mr. Youssef Assoumani Mondoha**, former MP, PGA member and rapporteur of the Rome Statute Accession Act of the Comoros in 2007, saw the intervention of the Minister of Justice of Madagascar, **H.E. Mrs. Christine Razanamahaso**, the President of the National Assembly of the Comoros, **H. E. Hamidou Bourhan**, **Hon. Aderemane Ahmed Abdallah**, President of the Commission for External Relations and **H.E. Ambassador Luc Hallade**, Ambassador of France in Comoros. In his speech, the latter emphasized the importance of the fight against impunity and reiterated the support of the International Criminal Court on behalf of the European Union. More than 40 participants, parliamentarians, high level government officials of different countries and representatives of the civil society actively participated in the conference.

The discussions not only provided for an update of the status of national implementing legislation of the Rome Statute in the represented countries, but offered also a forum to discuss the principles that characterize the jurisdiction of the ICC, such as complementarity and the obligation of States parties to fully cooperate with the Court. The session of February 26 offered a perspective on key challenges and topics to be discussed at the first Review Conference of the Rome Statute of the ICC, which will take place from May 31 to June 11, 2010 in Kampala, Uganda. All participants recognized the importance of this exercise, both at a technical level (amendments), as well as to make a first assessment of the performance and impact of the system of international criminal justice and the Rome Statute. States will have to examine where the international community can do more to further the fight against impunity. In the final resolution, the participants expressed their intention to urge their respective governments to ensure a high-level representation at the Review Conference. (*See Resolution*).

The status of implementing legislation of the Rome Statute of the hosting country, Comoros, was presented by the Attorney General of the Union, **Mr. Azad Mze**. Since 2007, Comoros has a law on cooperation with the ICC, regarding which PGA cooperated with Comorian MPs for its preparation (Decree No. 07-013/PR promulgating Law No. 07-

002/AU on Cooperation with the International Criminal Court, February 7, 2007). A new draft law, including both cooperation provisions and substantive crimes in one act, arising from a joint seminar civil society/government in September 2008, has been discussed in relevant agencies and transferred from the Ministry of Justice to the National Assembly in January 2009. The bill was discussed in the parliamentary session in April 2009 but not yet adopted. The new parliament, installed since December 2009, has now the task to ensure the prompt consideration of this law. All the high-level government officials participating in the conference have expressed their support for the approval of the law.

Djibouti has ratified the Rome Statute in November 2002. The Djiboutian penal codes need some revisions to meet the obligations of the Rome Statute, explained **Mr. Abdi Ismail Hersi**, Secretary General of the Ministry of Justice of Djibouti. An inter-ministerial committee, which is responsible for the implementation of international treaties into national law, has established a work-schedule over 3 years to complete a new formulation of the penal codes until the end of 2011. Regular meetings are planned to evaluate the progress of this work. Mr. Hersi assessed that the limited capacity of some countries, especially small countries like those attending this conference, is often a major obstacle to the implementation of the Rome Statute into national law. He encouraged the represented countries to make use of regional cooperation and technical assistance from PGA. Such exchange is both effective and inexpensive and therefore a much recommended instrument.

The new Constitution of *Madagascar*, as amended by referendum in April 2007, expressly authorizes the ratification of the Rome Statute of the ICC in its Article 131. The country has ratified the Statute on March 14, 2008, following a positive vote of Parliament dating back to 2006, which saw the active involvement of PGA members. The Minister of Justice, **H.E. Mrs. Christine Razanamahaso**, announced her intention to speed up the ratification process in preparation of the Review Conference in Kampala.

Hon. Madan Dulloo, MP and former Minister of Foreign Affairs and Cooperation of *Mauritius* from 2005-2008, on his part, informed that a bill implementing the Rome Statute may be ready to be submitted to the Mauritian parliament. It is expected that this legislation will be included in the legislative agenda after the general elections, scheduled for the first half of 2010. The draft bill covers both the principle of complementarity and provisions for an effective cooperation with the Court.

As in Mauritius, a draft bill has been prepared by the Government of *Tanzania* and recently transmitted to the Ministry of Justice in January 2010. This draft should soon be submitted to parliament and the public for debate. **Hon. Pindi Chana, MP**, stressed the political will of Tanzania to work with legislators and civil society on this project for a prompt implementation of the Rome Statute. She recognized at the same time that many challenges remain, such as the need to educate various stakeholders on the nature of the ICC in order to remove certain negative perceptions and misconceptions about the characteristics of the Court and the necessity of genuine infrastructure, facilitating effective cooperation with the

ICC. Finally, Hon. Chana reminded legislators to constantly urge their governments to advance drafts of this bill.

In the *Democratic Republic of Congo*, situation-country under investigation by the ICC, a bill implementing the Rome Statute was tabled in March 2008 by two PGA members, Prof. Hon. Mwene Songa and Hon. Crispin Mutumbe. This bill, which rejects the death penalty, shall be retained on the definitive calendar of the parliamentary session which starts on March 15, 2010. **Hon. Emmanuel Adubango Ali, MP** and leader of the DRC national PGA group, expressed his optimism about the prompt adoption of this law, especially as the draft now enjoys the support of most MPs and the Speaker of the National Assembly. He reiterated that the PGA national group, which now counts over 70 members, will continue its advocacy tirelessly to ensure the adoption of the implementing law during the first term of the third Republic, which ends in June 2011.

Discussions during these the two days have also led to a reflection on the role of the ICC in the African region and the importance of sustained action to protect the integrity and purpose of the Rome Statute. Several participants expressed their concerns against the threats of non-cooperation propagated by Sudan and its allies within multilateral frameworks such as the African Union. In this regard, Hon. Dulloo reiterated the importance that the African Union itself attests to the struggle against impunity by including the wording "condemnation and rejection of impunity" in its constitutive act. In addition, the treaty also provides for the right of the organization to intervene in a member state in the event of war crimes, crimes against humanity and genocide - which is a unique provision in a founding document of an intergovernmental organization. These principles must be respected and defended in the framework of the African Union and other sub-regional organizations.

This position was also strongly advocated by Mr. Hersi, representative of Djibouti. Indeed, the countries' membership of the ICC, the African Union, the Arab League and the Francophonie gives Djibouti a unique position. The country has the potential to play an important role in promoting universal human rights in African countries and the Arab world and in mediating positions expressed by States which have not yet acceded to the Rome Statute.

In the final resolution, the participants strongly reaffirmed the important role of the ICC in favor of strengthening the fundamental human rights. The prevention and suppression of international crimes and the cooperation of Member States with the Court were recognized as an essential contribution to peace and security.

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