



**Consultations on the fight against impunity and the ratification of
the Rome Statute of the International Criminal Court**

Mission of PGA to Lomé, Togo
26-27 June 2014

On 26 and 27 June, PGA conducted a field mission in Lomé, Togo, in the framework of the *PGA Campaign for the Universality and Effectiveness of the Rome Statute system* (PGA ICC Campaign) to generate political will for the fight against impunity through the ratification of the Rome Statute of the International Criminal Court (ICC). In addition, the PGA delegation also succeeded in advancing the position of PGA in support of the ICC and of genuine national prosecutions of international atrocities to counter anti-ICC propaganda informing recent deliberations of the African Union.

The PGA delegation consisted of Dep. Alain Destexhe, MP (Belgium), Hon. Jean Kissi, Chair of the External Relations Committee of the National Assembly of Togo and Ms. Maia Trujillo, Senior Programme Officer for International Law and Human Rights, PGA. The delegation met with many Parliamentarians (majority and opposition), government officials, stakeholders and relevant actors in Togo who all agreed on the importance of the fight against impunity.

Background

Togo did not sign the Rome Statute and the Final Act of the Rome Conference, although a Togolese delegation attended the conference. The process of ratification of the Rome Statute has not commenced yet in Togo: No government action towards ratification has been registered due to a lack of political will, as it seems that Togo has not considered so far the ICC as sufficiently relevant or important. Moreover, the ratification of the Rome Statute and the potential jurisdictional reach of the ICC on Togo has raised concerns among some political actors and even the military over the possibility for the Court to investigate the post-electoral violence of 2005, which caused the death of more than 300 persons, in spite of the clear non-retroactive jurisdiction of the ICC.

Recently, another factor that has contributed to blocking the debate on ratification, namely the position of the African Union against certain prosecutorial developments at the ICC, which stemmed from an ideological campaign led by a few States affected by leadership-crimes which portrayed the ICC as unfairly targeting Africans and supported the retrogressive development in International Law leading to move back to the pre-World War II era in which Heads of States were protected by wide-ranging immunities. Such immunities ceased to exist before competent national and International jurisdictions since the Nuremberg and Tokyo trials of the 1940ties, the practise of International Criminal Tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR) of the 1990ties, the Special Court for Sierra Leone and other hybrid tribunals, the ICC

and the national jurisdictions of the territorial State or the State of nationality of the alleged perpetrator, as affirmed by the International Court of Justice in the DR Congo v. Belgium (Arrest Warrant) case.

With the recent ratification of the Rome Statute by Cote d'Ivoire on February 15, 2013, Togo is now the only member of the Economic Community of West African States (ECOWAS) that has not yet ratified the Rome Statute. The absence of Togo in the system of the ICC not only affects the complete universality of the Rome Statute in the region, it also undermines the cooperation network that can ensure the effective work of the ICC.

In addition, the delays on the ratification and implementation process would lead to delaying in turn the advancement of the national human rights agenda, while the commitment of Togo on human rights, the rule of law and justice issues could be confirmed by a swift ratification, and subsequently a full and comprehensive implementation of the Rome Statute.

In light of all the above, and as a direct follow of the Abidjan meeting of the PGA Working Group on the fight against impunity in Francophone African countries [LINK], PGA decided to send a delegation to meet with relevant stakeholders in order to encourage the government to take the relevant measures to end impunity through the ratification of the Rome Statute while building domestic multi-party support and parliamentary consensus for the adoption of a ratification bill.

Consultations

On 26 June, the PGA delegation met with the President of the National Assembly, **H.E. Hon. Dama Dramani** and with the Chairs of the two parliamentary groups of the National Assembly, **Hon. Isabelle Manavi Ameganvi** (ANC/ADDI) and **Hon. Christophe Padoumhekou Tchao** (UNIR), as well as with Chairs of the Human Rights and Security and Defence Committees and some of their members (*see agenda*) to create political will and to raise awareness on the ratification process. After presenting the work of the ICC and the advantages for Togo to join the Rome Statute system, the PGA delegation had interactive debates with Parliamentarians who all confirmed their will to see impunity end in Togo and worldwide. They also recognised the importance of the ICC, although some concerns were raised on the alleged “African bias” of the Court. The link between peace, stability and the fight against impunity was underlined by many participants, who acknowledged the positive impact of the ICC and the Rome Statute system in international relations. The President of the National Assembly in particular committed to advocate for a prompt ratification of the Statute, and some of the MPs present promised to encourage their government to send a ratification bill to Parliament or even to introduce themselves a private-member’s bill.

During the meeting with the Secretary General of the Minister of Justice, **Judge Aworou Komlan Missite**, the role of Africa in establishing the ICC was emphasised and he expressed his support to the Rome Statute system that Togo will seek to promote even within the African Union. He recognised that within the context of the current judicial reform in the country, the ratification and implementation of the Rome Statute would be an important complement to strengthen the criminal justice system enabling national authorities to prosecute domestically the Rome Statute crimes, and also to reinforce victims’ rights and ensuring that fair trials are conducted at the national level not only for international crimes but also ordinary crimes. This will in turn contribute to an effective international criminal justice system in which there are no safe havens for those who commit the worst international crimes.

The President of the National Commission for Human Rights, **Mr. Alilou Sam-Dja Cissé**, committed to promote the ratification of the Rome Statute among government officials and Parliamentarians and specifically suggested the possibility to issue an official favourable recommendation for ratification.

The Prime Minister, **H.E.M. Kwesi Ahoomey-Zunu**, also received the PGA delegation accompanied by the Minister for Human Rights, **Me. Yakoubou Hamadou**. The Prime Minister explained the reasons of the rejection by Togo of the recommendations to ratify the Rome Statute formulated during the Universal Periodic Review of the United Nations Human Rights Council in 2011: As Togo is still engaged in a transitional justice process following the post-electoral violence of 2005 and is also in the process of reforming its domestic judicial system, the ratification of the Rome Statute will only follow in a second phase. He however recognised the importance of the ICC and the fight against impunity. The PGA delegation underlined that the Rome Statute is an indispensable tool for the construction and consolidation of the Rule of Law and is complementary to domestic judicial systems and accountability mechanisms, including justice systems “in transition”, in order to have a holistic approach to justice, as well as it reinforces the entire judicial system of the countries implementing it. The Prime Minister welcomed PGA’s efforts, asking to be invited as an observer to PGA’s 8th session of the *Consultative Assembly of Parliamentarians for the ICC and the Rule of Law* (link) which will be in held in the Parliament of Morocco on 4-5 December 2014, and pledged that sooner rather than later his country will ratify the Rome Statute.

The Secretary General of the Ministry of External Relations and Cooperation, **Mr. Frank Kokou Kpayedo**, welcomed PGA’s delegation and confirmed the Ministry’s interest in the work of the ICC as it has attended already three times the Assembly of States Parties. He recognised that the ICC places African countries before an important challenge due to the principle of complementarity by requesting from them to make their domestic judicial systems more efficient and strong to be able to investigate and prosecute serious crimes.

Finally, the PGA delegation also met with the **delegation of the European Union** and with representatives of the **civil society** to find ways of collaboration and to discuss strategies to promote the prompt ratification of the Rome Statute by Togo and to reinforce its commitment to end impunity.

It is important to note that in all meetings, the issue of the level of understanding among stakeholders in Togo was raised, as it remains largely superficial. PGA, the ICC but also relevant actors such as the EU and civil society were urged to continue to raise awareness on the Rome Statute system. PGA will thus continue to do so in order to generate political will and has also offered its technical, legal and political cooperation to assist the ratification process in Togo.

Conclusions

The mission was somehow successful as most of the actors the PGA delegation met with gave their commitment to promote a swift ratification of the Rome Statute. PGA will thus keep on working with all stakeholders to follow-up on those commitments and to build the ground for Togo to ratify promptly the Rome Statute, particularly by generating political will and a strong multi-partisan consensus within the Parliament and the government.

About PGA

Parliamentarians for Global Action (PGA) is the largest transnational network of Members of Parliaments from all regions of the world who, in their individual capacity, support the effective operation of the ICC and domestic jurisdictions to end impunity.

Members of PGA have contributed to 76 of the 122 ratifications or accession to the Rome Statute of the International Criminal Court (ICC). PGA is a member of the Steering Committee of the Coalition for the ICC. The PGA Campaign for the Universality and Effectiveness of the Rome Statute system receives support from the European Commission, the Governments of The Netherlands, Switzerland, Estonia and Liechtenstein, as well as from Humanity United.

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