



Parliamentarians for Global Action
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Statement of the PGA Secretariat

In Memoriam of Judge Hans-Peter Kaul (1943-2014): A giant of international criminal justice

The Hague/New York, 23 July 2014: Parliamentarians for Global Action (PGA), the largest transnational network of individual Lawmakers in all regions of the world, has learned with profound sadness of the passing of former International Criminal Court (ICC) Judge Hans-Peter Kaul on 21 July 2014, only three weeks after his resignation due to health reasons. PGA pays today a heartfelt tribute to one of the founding fathers of the new permanent system of International Criminal Justice based on the Rome Statute of the ICC.

Judge Kaul was the head of the German Delegation at the Preparatory Committee for the establishment of the ICC and gave an enormous contribution to the realization of an extremely progressive outcome of these New York negotiations and to the entire process that led to the adoption of the Statute by the Rome Diplomatic Conference on 15 June-17 July 1998. He started working on the Draft Statute in 1996 and contributed to several provisions of the founding document of the Court. In March 1998, he presented the most progressive position expressed by a Government in the course of these historic negotiations, when he advocated for an ICC that could exercise jurisdiction over the core crimes under international law regardless of the consent to be given by the State of the territory or the State of nationality of the alleged perpetrators or victims of the crime to be investigated. If the German proposal of Hans Peter Kaul had been accepted by UN Member States, we would not have had the need to include Article 12 on preconditions for the exercise of the Court's jurisdiction in the Rome Statute, and the Court would have had the ability to protect humanity in all countries and regions of the world in which crimes against the peace and security of humankind would have been committed. As a result, Syria, and other situations of mass atrocities, would have been included under the jurisdiction of the Court in the absence of ratification or ad hoc acceptance by the territorial State or the State of nationality of the alleged perpetrator and in the absence of a UN Security Council referral (which was vetoed by Russia and China in a recent UNSC vote of 13 States against 2 Permanent Members). Even if not accepted by the majority of UN Member States, the German proposal paved the way for a progressive compromise on the Court's jurisdiction in Article 12 of the Rome Statute, which stems from a specific proposal tabled at the Rome Conference by the Delegation of the Republic of Korea.

In his capacity as Head of the Public International Law Division of the Federal Foreign Office from 1996 to 2002, Hans Peter Kaul played a pivotal role in a number of dossiers in which his Government required international legal advice and action, including in prominent cases before the International Court of Justice. But due to his outstanding global leadership and vision on the creation and activation of the International Criminal Court, in 2002 the Government of Germany

appointed him as Ambassador and Commissioner of the Federal Foreign Office for the International Criminal Court.

In 2003, Judge Hans-Peter Kaul was elected judge at the ICC by State Parties for a term of three years after the end of which, he was re-elected for nine years. Judge Kaul was President of the Pre-Trial Division twice: from 2004 and to 2009 and again from April to July 2014. He served as Second Vice-President of the ICC from 2009 and 2012.

Judge Kaul made significant contributions to the jurisprudence of the Court, in particular by issuing important decisions in proceedings in the situations in Uganda, the Democratic Republic of the Congo, Darfur (Sudan), the Central African Republic, Kenya, Libya and Cote d'Ivoire.

Being a genuine promoter of the Rome Statute, Judge Kaul travelled extensively around the world in order to encourage states to ratify such an important instrument. PGA had the honor to work closely with Judge Kaul on a number of occasions. He was always the first to ask about which new countries were in the pipeline to join the Rome Statute system and the last to give up when problems or obstacles appeared to be in the way of a national ratification process.

Additionally, the growing support for the Kampala Amendments to the Rome Statute is in no small measure related to the inexhaustible efforts of Judge Kaul throughout his long, prestigious and devoted career. Outlawing the crime of aggression for good and giving effect to the predicament of the Nuremberg Judgment was the last project of Judge Kaul's extraordinary service for humanity. PGA's European Parliament Group led by German MEPs Helmut Scholz (Chair, PGA Group in the EP) and Barbara Lochbihler (Chair of the Human Rights Subcommittee in the Legislature that ended two months ago) benefitted from his good advice.

Judge Kaul was instrumental in the recent [Resolution passed by the European Parliament on the Kampala Amendments](#). He participated in the thematic meeting carried out at the European Parliament in November 2013 that was organized with the support of PGA in order to conduct a preliminary study and discuss strategies to prepare for such a Resolution. His contributions were essential to orient the discussions as he shared his experience as a judge at the ICC and highlighted the link between human rights and the aggressive use of force in WW I and WW II.

Judge Kaul was a giant of international criminal justice, a visionary legal practitioner who devoted his life to the promotion and protection of fundamental human rights under the Rule Law. Parliamentarians for Global Action is remembering today his extraordinary legacy.

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