



## ROME PLAN OF ACTION ON THE PREVENTION OF ATROCITIES, THE RULE OF LAW AND THE INTERNATIONAL CRIMINAL COURT

Camera dei Deputati, Rome, Italy, 11 December 2012

*We, the Members of Parliamentarians for Global Action (PGA) participating in the 7th Consultative Assembly of Parliamentarians for the International Criminal Court (ICC) & the Rule of Law, following the deliberations held in the Italian Parliament in Rome, on 10 and 11 December 2012, on the occasion of the 34<sup>th</sup> Annual Forum of PGA, the 10<sup>th</sup> Anniversary of the entry into force of the Rome Statute of the ICC, and on the Anniversary of the adoption of the Universal Declaration of Human Rights (1948), International Human Rights Day:*

*Express sincere appreciation to the Organizing Committee of PGA's Consultative Assembly for the successful organization of this 7<sup>th</sup> session in the Parliament of Italy;*

*Recall that Parliamentarians for Global Action is an action-driven and results-oriented group of over 1000 Parliamentarians from 131 countries representing all regions of the world;*

*Remembering the importance for the international community to benefit from the existence and operation of a permanent, independent and effective Court to punish, thus prevent the most serious crimes under international law, genocide, crimes against humanity, war crimes and the crime of aggression;*

*Recognising that victims have the right to access to justice, know the truth and have it publicly acknowledged, participate in proceedings, obtain appropriate reparations, be treated with dignity and respect, and receive guarantees from relevant authorities and parties of non-repetition of these atrocities;*

*Recognizing that, the international community continues to be confronted with grave human rights abuses and serious violations of human rights and international humanitarian law in different regions of the world, as well as with the breakdown and failure of the Rule of Law within several national frameworks;*

*Recognizing also that continuing inertia, inaction or delayed response by the international community and certain national governments in seeking to address this tragic reality is inexcusable and, in addition, is a serious indictment of humanity itself;*

*Observing that impunity for perpetrators of atrocities only serves to increase the likelihood of the commission of new, equally horrific crimes and may indeed lead to the re-escalation of violence resulting in the recurrence of internal or international armed conflicts;*

*Welcoming the work conducted by the International Criminal Court in its first ten years protecting, in particular, African victims of the most serious international crimes, and reminding the necessity of expanding this protection to victims in other regions of the world;*

***Agree to use our legislative and political prerogatives to advance the following objectives:***

### *(1) Achieving the Universal Ratification of the Rome Statute*

*Recognising that the universal ratification of the Rome Statute is crucial to the application of the principle of equality before the law, and for the effective deterrence of the most serious crimes under international law;*

*Applauding that as of 10 December 2012 and since the 6<sup>th</sup> session of the Consultative Assembly of Parliamentarians for the ICC and the Rule of Law held in Kampala, Uganda in May 2010, ten additional States have ratified or acceded to the Rome Statute, bringing the ICC membership to 121 States parties;*

*Welcoming the pledges towards ratification made by our colleague parliamentarians from Cote d'Ivoire, El Salvador, Jamaica, Malaysia, Morocco, Tonga, Togo and Zimbabwe, as well as the commitment to initiate the accession process expressed by MPs from Mauritania, and expecting to promptly receive their news on concrete progress;*

*Regretting, however, that 32 signatories of the Rome Statute are pending to ratify it, and that other 42 nations have yet to accede to the Rome Statute, including big world powers such as China, India, the Russian Federation and the United States;*

We resolve:

1. To vigorously engage with our colleagues from all political affiliations to achieve national and multi-partisan consensus to **remove the barriers towards** ratification, and to ensure our governments to proceed to the prompt ratification of, or accession to, the Rome Statute of the ICC, especially in under-represented regions such as Central and South East Asia and the Middle East;
2. To participate in coordinated parliamentary, governmental and civil society strategies to remove the barriers to ratification in major world and regional powers, starting from **China, India, the Russian Federation and the United States**;
3. To intensify our efforts to ensure that **universality of the Rome Statute is mainstreamed** as an objective in all available mechanisms of inter-parliamentary relations, as well as in programmes of action designed by Governments to promote human rights, the rule of law, justice, peace, democracy, sustainable development and multilateral cooperation.
4. Request our government to **promote the ratification** of the Rome Statute through bilateral contacts and multilateral venues, such as the high-level debate at the UN General Assembly, the Universal Periodic Review at the UN Human Rights Council, and in regional organisations.

*(II) Ensuring full cooperation with the International Criminal Court*

*Reaffirming* that States Parties to the Rome Statute have a duty to cooperate fully with the Court and, in particular, to implement legislation aimed at enabling the ICC to operate effectively, and ensure political will for state authorities to abide to their obligations of cooperation, as provided by Part 9 of the Rome Statute;

*Condemning* that 11 individuals publicly sought by the ICC for the commission of genocide, crimes against humanity and war crimes against populations in the Democratic Republic of the Congo, Côte d'Ivoire, Darfur and Uganda remain at large;

*Recalling* the validity and urgency of implementing the 66 Recommendations on Cooperation issued by the Assembly of States Parties to the Rome Statute of the International Criminal Court in 2007,<sup>1</sup> and subsequently;

*Welcoming* the progress in the field of domestic legislation on cooperation since the VI session of the *Consultative Assembly* that took place in Kampala in 2010, in particular the adoption of the Italian Law on Cooperation by the Parliament on 4 December 2012 and of other cooperation legislations, especially those where PGA members were active such as in Comoros, Mauritius, and Uganda, the progress in the debate of the ICC Bill in Brazil and the Democratic Republic of the Congo, and recent ratifications and accessions to the APIC, especially those where PGA members have been active such as those by Brazil, Chile, Costa Rica, Switzerland, and Tunisia;

*Regretting* however that 71 states parties are pending to adopt legislation on cooperation with the ICC,<sup>2</sup> that 50 are pending to ratify or accede to the APIC, and that there are a limited number of agreements on relocation of witnesses and no agreement for emergency relocation has been offered to the Court;

We resolve:

5. To promote, in each of our countries and all over the world, the adoption of **implementing legislation** on cooperation with the Court, thereby giving domestic judicial authorities a greater role in cooperation and thus ultimately de-politicizing the execution of arrest warrants;
6. To ensure that our government and parliament ratify or accede to the **Agreement of Privileges and Immunities of the Court (APIC)**, and that adequate legislation exists to ensure its full respect;
7. To galvanise political support and resources to collaborate with other governments and international organisations to achieve effective **arrest strategies** of each and all persons sought by the ICC;
8. To ensure that our governments conclude **specialized cooperation agreements** with the Court, including on enforcement of sentences, protection and relocation of witnesses and interim release;
9. To continuously call for the **unconditional respect, and implementation of, the decisions and orders of the ICC**, and call on our governments to ensure that, in its foreign and economic relations, non-essential contacts are severed with individuals subject to an arrest warrant by the ICC, and that, in the context of humanitarian aid or peace talks, our governments avoid supporting the diversion of funds or aid for the benefit of persons sought by the ICC;

<sup>1</sup> Available at [http://www.icc-cpi.int/iccdocs/asp\\_docs/library/asp/ICC-ASP-6-21\\_English.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/library/asp/ICC-ASP-6-21_English.pdf)

<sup>2</sup> 50 States Parties have adopted legislation to cooperate with the ICC, thus implementing their obligations under part 9 of the Rome Statute. For updated information consult the Parliamentary Kit on the ICC, or PGA's page on implementing legislation: <http://www.pgaction.org/programmes/ilhr/ICC-legislation.html>

10. To ensure that our governments and the United Nations in cases of referrals by the UN Security Council meet their obligation to provide the ICC with the **financial resources** needed to conduct its operations, while ensuring that the Court remains a model of effective international administration;
11. To encourage our Governments to pledge funds for the **Trust Fund for Victims**, thereby signaling that the ICC is not only delivering retributive and preventative justice, but also restorative justice;
12. To respond forcefully and systematically when situations arise that undermines the Court, such as **visits of indicted persons to States Parties, or inappropriate contacts by United Nations officials**.

*(III) Promoting fair and effective Domestic Prosecutions*

*Recalling* that all States – including those that are not yet Parties to the Rome Statute – have a duty to prosecute or extradite suspected perpetrators of international crimes and protect the rights of victims, so that the principle of ‘no impunity’ is given full and complete effect in each judicial system;

*Recalling* that the International Criminal Court has been established with complementary jurisdiction to that of states, and that exercise of jurisdiction by the ICC over specific cases does not preclude domestic action for related cases of the same situation;

*Recognizing further* the overarching imperative to protect people from violations of basic human rights norms, to seek justice and reparations for the victims and to put an end to impunity as essential pre-requisites for the establishment of lasting peace, and to address of the root causes of conflicts;

*Recognizing* that gender justice principles incorporated in the Rome Statute must be utilized not only in the implementation of substantive and procedural norms relating to international crimes, but should also inspire the modification of other laws, as appropriate, in order to ensure the highest possible level of protection for victims of such crimes;

*Noting with concern* the absence of multilateral frameworks to ensure effective inter-state cooperation and mutual legal assistance for states wishing to conduct domestic prosecutions on genocide, crimes against humanity or war crimes;

*Welcoming* the progress in the field of legislation for domestic prosecutions since the Consultative Assembly that took place in Kampala in 2010, in particular those led by PGA members with the adoption of crimes bill in Comoros, Mauritius, and Uganda, and the progress in the debate of the ICC bill in Brazil and in the Democratic Republic of Congo;

*Regretting* however that 67 states parties are pending to incorporate ICC crimes and general principles in their legislation;<sup>3</sup>

We agree:

13. To ensure the preparation and adoption of **legislation** that incorporates the definitions of the crimes and general principles under the Rome Statute, and that address gender-related crimes and crimes of a sexual nature in the Rome Statute of the ICC;
14. **To promote national efforts to investigate and prosecute international crimes** under the Rule of Law through, *inter alia*, the strengthening of the independence and capacity of the judiciary, the police and prosecutors to conduct effective investigations, and the creation of protection-programmes for victims and witnesses;
15. Promote the negotiation of a multilateral treaty on **mutual legal assistance and inter-state cooperation** to ensure that any state conducting prosecutions of ICC crimes receives the necessary support to ensure fair and effective prosecutions;
16. To strengthen the reparatory or restorative element of the Rome Statute system of international and domestic criminal justice through the elaboration and adoption of appropriate frameworks at the national level in consultation with victims, starting with law-reforms designed to ensure domestic implementation of **the rights of victims** as defined under international law, and appropriate financial allocations in the national budget for the benefit of victims (i.e. reparations programmes);
17. To ensure that the **conditions of detention** of suspects and convicted persons are in line with international human rights standards, that the punishment of Rome Statute crimes do not carry the imposition of the death penalty, and that individuals convicted for international crimes participate in genuine programmes of re-integration into society;

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<sup>3</sup> 54 states parties have adopted legislation incorporating the crimes and general principles contained in the Rome Statute enabling domestic prosecutions for ICC Crimes. For updated information consult the Parliamentary Kit on the ICC, or PGA’s page on implementing legislation: <http://www.pgaction.org/programmes/ilhr/ICC-legislation.html>

*(IV) Ensuring the effective Prevention of the most serious crimes*

*Observing* that impunity for perpetrators of international atrocities only serves to increase the likelihood of the commission of new, equally horrific crimes and may indeed lead to the re-escalation of violence resulting in the re-occurrence of internal or international armed conflicts;

*Noting* the importance of the dissemination of the preliminary investigations of the ICC to effectively trigger action to prevent ICC crimes;

*Underscoring* that the principle of equality of all before the law is the foundation of the Rome Statute system and that there should, therefore, be no double standards in the application of the law, including in the selection of situations and cases;

*Observing also* the vital deterrent effect, real and potential, that the International Criminal Court has, by virtue of its jurisdiction and very existence, on the commission of genocide, crimes against humanity, war crimes and the crime of aggression;

*Welcoming* the initiative of the government of Switzerland to convoke UN member states to request the Security Council to refer the situation in Syria to the ICC under Article 13(b) of the Rome Statute;

We resolve:

18. To continuously call upon the **United Nations Security Council to refer to the ICC** the gravest situations that do not fall under the automatic jurisdiction of the ICC (e.g. crimes against humanity, acts of genocide and patterns of war crimes allegedly committed in the territories of States not Parties to the Rome Statute), including currently the situation in Syria;
19. That in **peace-talks and negotiations** on situations where crimes under the Rome Statute to ensure mechanisms to fight impunity for those perpetrators bearing the highest responsibility;
20. To **improve the dissemination** of the Rome Statute at the national and local levels (a) through the inclusion of the Rome Statute in military and public service, as well as schools and university curricula, and of the principles of the rule of law in civic education programmes; and, (b) through the use of the web and multimedia, and national or trans-national public and social media to disseminate developments at the ICC and correct misinformation about the Rome Statute, as well as to generate improved awareness of the importance of the gender related provisions of the Rome Statute itself;

*(V) Ensuring respect to international humanitarian law and the prohibition on the use of force in the UN Charter through the 2010 Kampala Amendments to the Rome Statute*

*Welcoming* the decision of the States Parties to the Rome Statute of having adopted the first amendments to the Rome Statute in Kampala, Uganda in June 2010, which reduces the gap in the protection during armed conflicts not of an international character, and provides for the first time a mechanism of prevention of the commission of the crime of aggression;

*Celebrating* the first ratifications to both Kampala Amendments by Liechtenstein, Samoa and Trinidad and Tobago, and the recent unanimous adoption of the Kampala Amendments by the German Bundestag;

*Recalling* the urgency of ensuring 30 ratifications before the end of 2016, to ensure an activation of the jurisdiction of the ICC over the crime of aggression in 2017;

*Recalling* the decision of the Review Conference in Kampala to decide by 2015 on the proposal to delete Article 124 of the Rome Statute, a transitional provision that, without justification, provides the possibility of temporarily limiting the jurisdiction of the ICC over war crimes;

We resolve:

21. To intensify efforts to ensure the **ratification of the Kampala Amendments**, especially on the crime of aggression, to achieve 30 ratifications before 2016;
22. To promote that **new ratifications of the Rome Statute consider the 2010 version**, which includes the Kampala Amendments;
23. To engage in dialogue with our governments to ensure a positive decision to **activate the jurisdiction over the crime of aggression in 2017** at the ASP;
24. To use our political prerogatives to mobilize support to **prevent the illegal use of force** and the widest protection of civilians and armed forces during armed conflict, especially through the **domestic implementation** of the definitions of the Kampala amendments;

25. To, individually or collectively, **submit for consideration of the Nobel Peace Prize committee the results of the Kampala Review Conference** and of those individuals that have relentlessly fought to proscribe the illegal use of force among nations;
26. To commence the work to promote the **deletion by the Assembly of States Parties, in 2015, of Article 124** from the Rome Statute;
27. To continue our engagement to ensure **filling the gaps in the crimes covered by the Rome Statute**, as reflected by customary international law;

*(VI) Maintaining a political constituency in favour of the rule of law and the prevention of the most serious international crimes*

*Appreciating* the support provided to the PGA ICC Campaign by the European Commission (EU), and the Governments of Liechtenstein, The Netherlands, Switzerland, and by Humanity United, as well as the core support by the Governments of Denmark and Sweden, and the in-kind contributions of numerous parliaments;

*Recognising* the invaluable forum provided for by PGA's Consultative Assembly of Parliamentarians on the Rule of Law and the ICC;

*Recalling* the inter-relationship between the objectives of PGA under its three programmes on *International Law and Human Rights, Peace and Democracy*, and *Gender, Equality and Population*;

*Noting* the centrality of the protection of due process and fair trial for the rights of the defense and of victims in the ICC architecture and recognizing the role of the legal professions in protecting human rights;

We resolve:

28. To resist forcefully any attempts or initiatives by any government that has the effect of undermining the purposes and the **integrity of the Rome Statute** of the ICC;
29. To support the efforts towards the establishment of an *independent, representative body of Counsels* with effective functions to guarantee discipline, training, legal aid and access to the ICC to representatives of the defense and of victims;
30. To **keep the PGA Secretariat informed** on a periodic basis of the aforementioned different initiatives and activities that we take, and ensure the PGA Secretariat disseminates, where appropriate, through social and public media, the activities of the network;
31. To **report back** on the nature and results of our initiatives and activities during the *VIII PGA Consultative Assembly of Parliamentarians on the ICC and the Rule of Law* to take place in 2014;
32. To provide to the PGA Secretariat **suggestions to strengthen the format, content and priorities of future sessions of the Consultative Assembly**; and
33. To invite *PGA members* to present offers to **host the VIII session in 2014** at a venue and date to be subsequently determined taking into account the ongoing need for further understanding about the ICC in countries where it is investigating and to ensure the universal ratification of the Rome Statute.

Done in Rome, 11 December 2012