



Parliamentarians for Global Action
Parlamentarios para la Acción Global
Action Mondiale des Parlementaires
برلمانيون من أجل التحرك العالمي

CONSULTATIVE ASSEMBLY OF PARLIAMENTARIANS ON THE INTERNATIONAL CRIMINAL COURT AND THE RULE OF LAW (CAP-ICC)

(10th session)

40th Annual Forum of Parliamentarians for Global Action (PGA)

Kyiv, Ukraine

16-17 November 2018

Kyiv Plan of Action on the Universality and Effectiveness of the Rome Statute system against impunity

We, Parliamentarians from all regions of the world, participating in the 10th Session of the Consultative Assembly of Parliamentarians for the International Criminal Court & the Rule of Law (CAP-ICC), at the end of the deliberations held in Kyiv, Ukraine, on 16 and 17 November 2018, on the occasion of the 40th Annual Forum of Parliamentarians for Global Action hosted by the Verkhovna Rada of Ukraine, marking the 20th Anniversary of the Rome Statute of the ICC and the 70th Anniversary of the Universal Declaration of Human Rights (1948):

Expressing gratitude to the Parliament of Ukraine, the Organizing Committee of PGA's Consultative Assembly and the donors and partners of PGA for making possible this 10th session in Kyiv, within the framework of PGA's action-driven and results-oriented Campaign for the Universality and Effectiveness of the Rome Statute of the ICC system in all regions of the world;

Acknowledging the crucial role we play as Legislators for the universality and effectiveness of the Rome Statute system, which consists of national jurisdictions completed by the ICC as "Court of last resort", as well as for building and strengthening the Rule of Law, and enhancing victims' access to justice, truth and reparations;

Recognizing that impunity for perpetrators of genocide, crimes against humanity, war crimes and the crime of aggression only serves to increase the likelihood of the commission of new atrocities;

Recognizing in particular that impunity for perpetrators of crimes against humanity and serious war crimes in the situations affecting the territorial integrity and political independence of Ukraine is posing a threat to international peace and security, and it constitutes an internationally-wrongful act that requires immediate redress and the reinstatement of the integrity of Ukraine's sovereign rights on its territories and people;

Understanding the vital deterrent effect the ICC may have, by virtue of its jurisdiction and very existence, notwithstanding the challenge posed by the non-membership in the Rome Statute by three permanent Members of the UN Security Council;

Underscoring the importance of the ICC in preventing and countering any form of mass atrocity, including sexual and gender-based violence such as rape and enslavement as weapons of war;

We, the Members of Parliament attending the 10th CAP-ICC, therefore agree to use our legislative and political prerogatives to achieve the following national, global and, as appropriate, regional commitments:

I. On Universal Ratification of the Rome Statute

We recognize that the universal ratification of the Rome Statute is crucial to the application of the principle of equality before the law and to avoid double-standards towards effective deterrence of the most serious crimes under international law, and welcome pledges and concrete progress towards ratification or accession. We therefore praise the fact that 123 States have joined the Rome Statute system, also thanks to the direct contributions to the ratification or accession process made by PGA Members in at least 77 of these States. We renew the appeal to 72 Member States of the United Nations that have *not yet* ratified or acceded to the Rome Statute to do so. We regret that 1 State (The Philippines) has started the process of withdrawal from the Statute, while we welcome the decisions by 2 States (The Gambia and South Africa) to revert their withdrawal processes.

We also warmly welcome the statement by a leading Parliamentarian and Minister from Malaysia who announced the imminent accession to the Rome Statute, the strategic campaign by Ukrainian Parliamentarians and NGOs for the ratification of the Statute as soon as the amendment to the Constitution through which Ukraine accepts the ICC jurisdiction will enter into force on 30 June 2019, and the interventions by Parliamentarians from Non States Parties to launch and implement national actions plans to achieve ratification, building alliances with Civil Society Organizations and other stakeholders, such as in Guinea Bissau, Jamaica and Morocco.

We resolve:

1. To vigorously engage with our colleagues from all political affiliations to achieve national and multi-partisan *consensus* to remove the barriers toward ratification, and to request our own governments to promote the ratification of the Rome Statute through bilateral contacts and multilateral venues.
2. To intensify our efforts to ensure that universality of the Rome Statute in its amended version is mainstreamed as an objective in all available mechanisms of inter-parliamentary relations and programs of actions designed by Governments to promote human rights, the rule of law, justice, peace, democracy, sustainable development and multilateral cooperation.
3. To ensure that as many States as possible ratify the Amendments on the crime of aggression and on war crimes.

II. On Full Cooperation with the International Criminal Court

We reaffirm that State Parties to the Rome Statute have the duty to cooperate fully with the Court and implement legislation aimed at enabling the ICC to operate effectively, as provided by Part 9 of the Rome Statute. We welcome the progress that has been made in domestic legislation by State Parties.

We resolve:

4. To promote the adoption of implementing legislation on cooperation with the Court, and take action so that our governments and parliaments ratify the Agreement of Privileges and Immunities of the Court (APIC).
5. To galvanize political support and resources to collaborate with other governments and international organization to achieve effective arrest strategies of those sought by the ICC, in addition to ensuring that our governments conclude specialized cooperation agreements with the Court, including on enforcement of sentences, protection and reallocation of witnesses and interim release.
6. To continuously call for the unconditional respect and implementation of the decisions and orders of the ICC, including providing financial resources, encouraging the pledge of funds to the Trust Fund for Victims, and to respond forcefully and systematically when situations arise and undermine the Rome Statute system against impunity.

III. On the Promotion of Fair and Effective Domestic & International Prosecutions

We recall that the ICC has been established as a “court of last resort”, complementary to national jurisdiction, and that exercise of jurisdiction by the ICC over specific cases does not preclude domestic actions for related cases of the same situation. We recognize that all states have a duty to prosecute or extradite suspects and alleged perpetrators of international crimes. We pay special attention to the importance of establishing multilateral frameworks to ensure effective inter-state cooperation and mutual legal assistance for states wishing to conduct domestic prosecutions of international crimes. Last, but not least, we note with concern that some “performance-indicators” of the ICC have not been entirely satisfactory (e.g. the total number of publicly-known cases in over 16 years of prosecutorial and judicial activity), and that debates held to mark the 20th anniversary of the adoption of the Rome Statute have stressed the imperative to reform the Court’s organs with the view of improving their productivity.

We resolve:

7. To ensure the adoption of domestic legislation that incorporates the definitions of the crimes and general principles under the Rome Statute, hence maximizing the advocacy support and technical assistance that we may request to PGA.

8. To promote the negotiation of a multilateral treaty on mutual legal assistance and inter-state cooperation, ensure effective national efforts to investigate and prosecute international crimes under the Rule of Law (also via enhanced budgetary and human resources allocated to the justice sector in our countries), as well as strengthen the reparative or restorative element of the Rome Statute system of international and domestic criminal justice through the elaboration and adoption of appropriate frameworks for reparations, in consultation with victims and affected communities.

9. To ensure that penitentiary institutions are modernized, conditions of detention are in line with international human rights standards, punishment of Rome Statute crimes does not carry the imposition of the death penalty, and that individuals convicted for international crimes, whenever possible and appropriate, participate in programs of re-integration into society during and after their term(s) of imprisonment.

10. To work with relevant actors from civil society, academia and government in order to promote a reform-agenda within the Rome Statute system, which shall aim at the betterment of performance by all institutions of States and organs of the ICC that have a role and responsibility in advancing the fight against impunity, in particular through the prompt initiation of cases concerning alleged mass-atrocities and the empowerment of victims for effective access to justice, truth and reparations.

IV. On Effective Prevention of the Most Serious Crimes

We observe that impunity for perpetrators of international atrocities only serves to increase the likelihood of new, equally horrific crimes, and the importance of the ICC preliminary examinations to effectively trigger action to prevent ICC crimes, which may entail the extermination of civilians and assassination of political leaders. We realize that the principle of equality of all before the law is the foundation of the Rome Statute system, which provides the ICC with a vital deterrent effect on the commission of genocide, crimes against humanity, war crimes and the crime of aggression.

We resolve:

11. To continuously call upon the United Nations Security Council to refer the gravest situations that do not fall under the automatic jurisdiction of the ICC, to provide the ICC with the necessary means to accomplish its mandate for the situations deferred to it, and to refrain from the use of the veto in the face of mass atrocities, which entails a grave breach of International Law and the UN Charter.

12. To improve the dissemination of the Rome Statute at the national and local levels through (a) the inclusion of the Rome Statute in military and public service, schools and university curricula, as well as civic education programs; and, through (b) the use of the web and multimedia, and national or transnational 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.

Conclusion:

We appreciate the support provided to the PGA ICC Campaign by its partners, including the European Commission, and recognize the invaluable importance of information and strategies provided to us during PGA's *Consultative Assembly of Parliamentarians on the ICC and the Rule of Law*.

In addition to this Plan of Action, individual legislators will be working with the PGA Secretariat in the elaboration of country-specific and, as appropriate, regional and sub-regional Action Plans and strategies.

In this respect, we recall the inter-relationship amongst the mutually-reinforcing objectives of PGA under its new focus on Democratic Renewal and its three programs on International Law and Human Rights, International Peace and Security, and Gender, Equality and Inclusion, towards the fulfillment of the vision: *"To contribute to the creation of a Rules Based International Order for a more equitable, safe and democratic world"*.

We, the Participants in the 10th CAP-ICC, have agreed on this Kyiv Plan of Action and are committed to keeping the PGA Secretariat informed on a periodic basis of all the actions and initiatives that we will carry out to implement its objectives, as well as report back on the results of the 11th Consultative Assembly of Parliamentarians on the ICC and the Rule of Law (CAP-ICC).

*10th Session of the CAP ICC
Kyiv, 16-17 November 2018*