

STATEMENT BY DR. DAVID DONAT-CATTIN,
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*Madame President,
Representatives of States and Non-Governmental Organizations,
Representatives of the International Criminal Court (ICC):*

It is an enormous privilege and honour for Parliamentarians for Global Action – the largest organization of individual Lawmakers with over 1150 Members of Parliament from 132 countries in all regions of the world – to address the 20th Assembly of States Parties to the Rome Statute of the ICC, a treaty that our global network started to promote in the year 1989, to mark a new era after the Cold War that should have been characterized by the globalization of justice, human rights and the Rule of Law.

1) PGA renews its absolute commitment to the object and purpose of the Rome Statute of the ICC.

In particular, PGA undertakes to continue to carry out concrete action for

- the **Universality** of the Rome Statute [*invitation to today's side event*],
- the effective implementation of the principle of **Complementarity**,
- the effective application of the obligation of **Cooperation** and
- the **protection of the Integrity of the Rome Statute**, including the protection of the independence and impartiality of the Court's principal organs.

2) PGA supports a reform of the procedures for the **nomination of ICC judicial candidates** at the National level, in line with the recommendations contained in Chapter XX of the Independent Experts' Review report [*invitation to Friday's side event with Justice Richard Goldstone*]. PGA notes with great concern the para. 29 of the ASP report on the election of Judges¹, which postpones relevant action by the ASP to 2022. PGA believes that it is in the best interests of the ICC and of States Parties to agree on binding criteria for a uniform procedure at national level to ensure that the best possible nominees are emerging, and that the current practice of politically nominated candidates be halted.

¹ Report of the WG on the elections of Judges, para. 29:

29. Regarding the options presented for the implementation of Recommendations (R) 376 and 377, the facilitator explained the suggestion for the Working Group to consider R 377 in 2022 on the basis that the Assembly had already requested the Advisory Committee on Nominations (CAN) to provide documents in relation to national nomination procedures, that this facilitation of the Working Group was not in a position to be able to compile criteria and guidelines as recommended in R 377 in time for the upcoming session of the Assembly, and that this work could be done during 2022, as the outcome of the work could be applied to the election of judges in 2023, given the nomination process for that election would be opened in early 2023.

While the national laws of most States Parties allow the political appointment of certain Judges to certain highest judicial institutions, the Rome Statute does not preclude that States create transparent, public and merit-based procedures to select the most qualified judicial candidates. This is a necessary reform that the ASP is called to undertake.

3) Since the first ASP in 2002, PGA has consistently recognized the need to **support for the ICC** as center-piece of the Rome Statute system against impunity: Budgetary needs must be met as the Court increases its effectiveness and efficiencies in delivering more cases in the situations falling under the Court's jurisdiction. Therefore, the budget of the ICC must be driven by the imperative to address atrocity-crimes' waves, and must adapt to the needs. States shall never use the limitations to the budget as a tool to control or curb the Court's activities. The Rome Statute creates a Criminal Court, which applies International Law under Article 21 and functions within the shell of an International Organization. But while the budgetary needs of the International Organization are predictable and relatively modest, the budgetary needs of the Criminal Jurisdiction are not entirely predictable and may be rather significant (even if incomparably smaller than the budgetary resources absorbed by the security sector). The ICC budget process must be reformed to reflect this reality, so to upgrade the ICC and align it with the needs of the fight against impunity worldwide.

4) It is imperative to learn the lessons from the failures of domestic and international criminal justice in concrete situations: For example, how is it possible that **no case on crimes against humanity** allegedly occurred in **Afghanistan** was initiated before any Afghan Court or before the ICC since the Rome Statute was ratified by Afghanistan in February 2003? Impunity in Afghanistan led to new atrocity-crimes, and now the Taliban are back in power (they are the *de facto* regime ruling over Afghanistan). The International Community failed to ensure the respect of International Law, including International Criminal Law, in 20 years of intense intervention in Afghan's territory. Counter-terrorism apparently prevailed over the need to bring to justice those most responsible of crimes against humanity and other crimes under International Law, including leaders of the Taliban and certain leaders – also known as war-lords – of the Afghan State (whose subordinates refused to fight against the Taliban in the last phase of the armed conflict following the Doha Peace Agreements, which were repeatedly breached by the Taliban). PGA calls upon the ICC and its Assembly of States Parties, which includes Afghanistan, to engage in a lessons-learned exercise concerning interferences and external pressures that might have hampered the respect of the Rome Statute concerning the Afghan situation, with the view to take measures that would impede the repetition of the same mistakes or failures in the future in other situations falling under the Court's jurisdiction.