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FOURTH  
CONSULTATION  
ON  
THE IMPLICATIONS FOR COUNCIL OF EUROPE MEMBER STATES OF THE  
RATIFICATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL  
COURT  
**PROGRESS REPORT**  
**UKRAINE**

Council of Europe, Athens (Greece)  
14-15 September 2006

## Progress Report

Ukraine was an active participant of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court which took place on 15 June – 18 July 1998 in Rome (Italy) and resulted in adoption of the Rome Statute of the International Criminal Court (ICC).

Ukraine signed the Rome Statute on 20 January 2000.

On 11 July 2001 the Constitutional Court of Ukraine adopted its Opinion on the conformity of the Rome Statute to the Constitution of Ukraine. The Constitutional Court has considered the constitutionality of provisions of the Rome Statute on the complementary jurisdiction of the ICC, irrelevance of official capacity (Art. 27), surrender of persons to the ICC (Art. 89), enforcement of sentences (Art.103). The Rome Statute was found to be in compliance with the Constitution of Ukraine with the exception of provisions according to which the ICC' jurisdiction is supplementary to the national system (paragraph 10 of the Preamble and Art. 1 of the Rome Statute). Hence, the amendment of the Constitution is required before the Statute can be ratified.

The Ministry of Justice of Ukraine together with the Ministry of Foreign Affairs of Ukraine prepared and submitted in July 2006 to the President of Ukraine the following draft law on the amendment to Article 124 of the Constitution of Ukraine:

*«In view of ensuring inevitability of punishment for the most serious crimes of international concern,  
taking into account the signature by Ukraine on 20 January 2000 of the Rome Statute of the International Criminal Court and the necessity of the following ratification of this international treaty,  
bearing in mind the decision of the Constitutional Court of Ukraine of 11 July 2001 No. 3-v/2001 in the case of the opinion on the conformity of the Constitution of Ukraine with the Rome Statute of the International Criminal Court,*

*the Verkhovna Rada of Ukraine resolves:*

*I. To add paragraph 6 to Article 124 of the Constitution of Ukraine as follows:*

*“Ukraine can recognise the jurisdiction of the International Criminal Court upon the conditions provided for in the Rome Statute of the International Criminal Court”.*

*II. This Law comes into effect on the day of its publication.».*

The draft law on the amendment to Article 124 of the Constitution of Ukraine, after its submission to the parliament by the President, will have to be adopted at two consecutive sessions of the parliament – first by simple majority of the parliament's composition and then by two thirds majority of the composition. The Constitutional Court's opinion on the draft law is also required before its final adoption.

The Rome Statute can be ratified by Ukraine only after the Constitution of Ukraine is amended. The draft law on the ratification will have to be submitted in one package with the draft implementation legislation, as it is provided for in the Law of Ukraine “On International Treaties of Ukraine”.

In June 2006 the President of Ukraine submitted to the parliament draft law on the ratification of the Agreement on Privileges and Immunities of the International Criminal Court.