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**THE IMPLICATIONS FOR COUNCIL OF
EUROPE MEMBER STATES OF THE
RATIFICATION OF THE
ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**LES IMPLICATIONS POUR LES ETATS
MEMBRES DU CONSEIL DE L'EUROPE
DE LA RATIFICATION DU STATUT DE
ROME DE LA COUR PENALE
INTERNATIONALE**

PROGRESS REPORT BY MOLDOVA

Moldova has been unable thus far to ratify the Rome Statute of the International Criminal Court because the latter's provisions are in contradiction with the Constitution of the Republic of Moldova.

Article 59 of the statute requires member States to arrest, or to arrest and surrender, any person who has committed a crime within the jurisdiction of the Court, while Article 17, paragraphs 3 and 4, of Moldova's Constitution stipulates:

“(…)

(3) No citizen of the Republic of Moldova can be extradited or expelled from his/her country.

(4) Foreign nationals or stateless persons may be extradited only in compliance with an international agreement or under conditions of reciprocity in consequence of a decision of a court of law.”

Under its Constitution, therefore, Moldova cannot extradite its own citizens, so in order to ratify the Rome Statute it must first amend the above provisions of the Constitution.

Article 114 of the Constitution provides that justice is to be administered in the name of the law by courts of law only.

Article 115 paragraphs 1 and 2 establish the following jurisdictions:

“(1) Justice shall be administered by the Supreme Court of Justice, the Court of Appeal, courts of first and second instance.

(2) To hear certain categories of cases special courts may be set up under the law.

(…)”

Under the above provisions of the Constitution, therefore, any crime committed on Moldovan territory, including those provided for in Articles 5, 6, 7 and 8 of the Rome Statute, falls within the exclusive jurisdiction of the courts mentioned in Article 115 of the Constitution, which makes no provision for any other court to judge these crimes.

Moldova is therefore unable to ratify the Rome Statute of the International Criminal Court without first amending its Constitution, which is a lengthy and complex process.