

Press Release

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Ukraine - proposal for a new Constitution by the President - Venice Commission's opinion

Strasbourg, 16.06.2009 - At its session in Venice on 12 to 13 June the Venice Commission adopted, at the request of the Permanent Representation of Ukraine to the Council of Europe, an opinion on the proposal of President Yushchenko for a new version of the Constitution. The Minister of Justice of Ukraine, Mr Onishchuk, took part in the discussions.

The Venice Commission notes that the draft provides clear improvements both with respect to previous drafts and to the current Constitution. These improvements are particularly apparent with respect to the provisions on the judiciary and the prosecution service. Here the draft no longer reflects the Soviet model of *prokuratura* but a model of the prosecution service in line with European standards and in compliance with Ukraine's commitments to the Council of Europe.

The Venice Commission also welcomes that the draft abandons a number of questionable provisions of the current Constitution, e.g. on the formalised majority coalition in the Verkhovna Rada, on the so-called imperative mandate, the double responsibility of the Cabinet of Ministers to the President and to the Verkhovna Rada and the distinction between ministers appointed on the proposal of the President and ministers appointed on the proposal of the Prime Minister.

According to the Venice Commission, opinions on one of the major innovations of the draft, the establishment of a second chamber, may differ. Advantages and drawbacks of this solution have to be weighed carefully.

Other proposed amendments receive a more critical assessment. The requirement that all constitutional amendments require a referendum risks making the Constitution excessively rigid and the expansion of direct democracy at the national level creates additional risks for political stability. While changes with respect to the position of the Autonomous Republic of Crimea are not dramatic, they tend to decrease the autonomy.

Finally, the Commission notes that the draft describes the powers of the state organs more precisely and that it removes a number of sources of tensions between them. Nevertheless, in view of the Commission it is not evident that the draft attains its main aim of putting an end to the constant institutional conflicts between the main state organs. The draft maintains a semi-presidential system with a double executive and areas of potential conflict between the President and the Cabinet of Ministers remain.

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