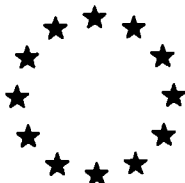


**Council of Europe**  
**Conseil de l'Europe**



Strasbourg, 4 September 1995  
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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**MEMORANDUM**

**THE CONTEMPORARY CONSTITUTIONAL ORDER  
IN UKRAINE**

by

**Mr Serhiy HOLOVATY**  
✦ (Ukraine)

**Re: The Contemporary Constitutional Order in Ukraine**

**Memorandum**

The adoption of the Constitutional Accord by the President of Ukraine and the Verkhovna Rada of Ukraine, on June 9, 1995, which gave effect to the Law of Ukraine on State Power and Local Self-Government in Ukraine that was passed by the Verkhovna Rada on May 18, 1995 created an entirely new constitutional order in Ukraine. This new order will continue in effect during the current transitional period that will last until a new Constitution for Ukraine is adopted. The following considerations should be taken into account to define the essence of the contemporary constitutional order in Ukraine.

1. Ukraine was proclaimed an independent state by the Supreme Soviet of the Ukrainian Soviet Socialist Republic on August 24, 1991.
2. The 1978 Constitution of the Ukrainian Soviet Socialist Republic, adopted when Ukraine was a subject of the U.S.S.R., became an integral legal act of independent Ukraine after the Verkhovna Rada of Ukraine adopted the Law of Ukraine on Legal Succession on September 12, 1991 (No. 1543 - XII. Article 2 of this law stipulates:

"The Constitution (the Fundamental Law) of the Ukrainian Soviet Socialist Republic is effective on the territory of Ukraine until the new Constitution of Ukraine is adopted."

The Law of Ukraine on Legal Succession was adopted by a simple majority of the People's Deputies (members of parliament). The law was supported by 290 deputies out of a total of 450. Therefore, Article 2 was adopted by a simple majority in Parliament as the first constituent act of the independent state of Ukraine.

3. The Law of Ukraine on State Power and Local Self-Government in Ukraine which is not in accord with all the provisions of the 1978 Constitution of the Ukrainian Soviet Socialist Republic, was adopted by the Verkhovna Rada of Ukraine by a simple majority. The law received positive votes of 219 deputies from a total of 407 deputies. (Specifics of the Election Law of Ukraine have resulted in 43 vacancies in the Verkhovna Rada).

4. The text of the Constitutional Accord between the President of Ukraine and the Verkhovna Rada of Ukraine and its component part, the Law of Ukraine on State Power and Local Self-Government in Ukraine, was approved by a simple majority of members (240 out of a possible 450 total membership).

In light of Article 61, Part I, and Parts II, IV and the Concluding Provisions of the Constitutional Accord, the latter is to be regarded as the Second Constituent Act of the independent state of Ukraine, approved by a simple majority of members of the Parliament of Ukraine. For this reason, the legitimacy is equal to that of the first constituent act, Article 2 of the Law of Ukraine on Legal Succession.

5. The Constitutional Accord was concluded as a political and legal compromise after the Verkhovna Rada failed to pass the Law of Ukraine on State Power and Local Self-Government of Ukraine by a qualified majority of 300 votes as specified in the 1978 Constitution.

Kindly consider my observations when evaluating the legitimacy and legal substance of the Constitutional Accord. It is one of a system of legal acts that comprise the contemporary constitutional law of Ukraine.

Serhiy Holovaty