

DECISION 98-408 DC OF 22 JANUARY 1999

Treaty laying down the Statute of the International Criminal Court

On 24 December 1998, the President of the Republic and the Prime Minister referred to the Constitutional Council, pursuant to Article 54 of the Constitution, the question whether, in view of the commitments entered into by France, the ratification of the Treaty laying down the Statute of the International Criminal Court signed in Rome on 18 July 1998 must be preceded by revision of the Constitution;

THE CONSTITUTIONAL COUNCIL,

Having regard to the Constitution of 4 October 1958;

Having regard to the Preamble to the Constitution of 27 October 1946;

Having regard to Ordinance 58-1067 of 7 November 1958 laying down the Institutional Act on the Constitutional Council, and in particular the second paragraph of section 18 and sections 19 and 20 thereof;

Having regard to the Decree of 2 December 1910 promulgating the International Convention concerning the Laws and Customs of War on Land, signed in the Hague on 18 October 1907, and the Regulation on the Laws and Customs of War on Land annexed thereto;

Having regard to the Decree of 22 August 1928 promulgating the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, signed in Geneva on 17 June 1925;

Having regard to Decree 45-2267 of 6 October 1945 promulgating the Agreement between the provisional Government of the French Republic and the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics for the Prosecution and Punishment of the Major War Criminals of the European Axis Powers, together with the Charter of the International Military Tribunal, signed in London on 8 August 1945;

Having regard to Decree 46-35 of 4 January 1946 promulgating the Charter of the United Nations, incorporating the Statute of the International Court, signed in San Francisco on 26 June 1945;

Having regard to Decree 50-1449 of 24 November 1950 publishing the Convention on the Prevention and Punishment of the Crime of Genocide, approved by the United Nations General Assembly on 9 December 1948;

Having regard to Decree 52-253 of 28 February 1952 publishing the Convention relative to the Treatment of Prisoners of War, the Convention relative to the Protection of Civilian Persons in Time of War, the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, and the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, signed in Geneva on 12 August 1949;

Having regard to Act 64-1326 of 26 December 1964 declaring crimes against humanity imprescriptible;

Having regard to Act 83-1130 of 23 December 1983 authorising the accession of the French Republic to the Additional Protocol to the Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977, and Decree 84-727 of 17 July 1984 publishing the Protocol;

Having regard to Act 87-1134 of 31 December 1987 authorising the ratification of a Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, and

Protocols I, II and III thereto, concluded in Geneva on 10 October 1980, and Decree 88-1021 of 2 November 1988 publishing the Convention;

Having regard to Act 90-548 of 2 July 1990 authorising the ratification of the Convention on the Rights of the Child, signed in New York on 26 January 1990, and Decree 90-917 of 8 October 1990 publishing the Convention;

Having regard to Act 95-1 of 2 January 1995 adapting French legislation to Resolution 827 of the Security Council of the United Nations establishing an International Court to judge persons suspected of being liable for serious breaches of international humanitarian law committed on the territory of the former Yugoslavia since 1991;

Having regard to Act 96-432 of 22 May 1996 adapting French legislation to Resolution 955 of the Security Council of the United Nations establishing an International Court to judge persons suspected of being liable for serious breaches of international humanitarian law committed in 1994 on the territory of Rwanda and by Rwandan citizens on the territory of neighbouring states;

Having heard the rapporteur,

On the following grounds:

ON THE CONTENT OF THE INTERNATIONAL COMMITMENT REFERRED TO THE CONSTITUTIONAL COUNCIL:

1. The Treaty signed in Rome on 18 July 1998 establishes the International Criminal Court and its Statute; it specifies that the Court, which has permanent status and international legal personality, is to have the power to exercise its jurisdiction over persons for the most serious crimes of international concern which, in the words of the preamble to the treaty, “threaten the peace, security and well-being of the world”; the treaty declares the Court, which may exercise its functions and powers on the territory of any State Party, to be “complementary to national criminal jurisdictions”; it stipulates that the Court “shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf”; the Rules of Procedure and Evidence are to enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties;

2. The Court, which will have its seat in the Hague, the Netherlands (“the host state”), consists of an Appeals Division, a Trial Division and a Pre-Trial Division; the judges, of whom there are to be at least eighteen, are elected by the Assembly of the States Parties for a nine-year term; the Appeals Division is to consist of the President and four judges, the Trial Division and Pre-Trial Division consisting of at least six judges; the judicial functions of each Division of the Court are exercised by Chambers; the judges are independent in the performance of their functions and are not eligible for re-election; they are to adopt, by an absolute majority, the Regulations of the Court necessary for its routine functioning;

3. The other organs of the Court are the Office of the Prosecutor and the Registry; the Office of the Prosecutor, consisting of the Prosecutor, who directs it, and of the Deputy Prosecutors, is to “act independently as a separate organ of the Court”; the Prosecutors are elected by the Assembly of States Parties and exercise their functions for nine years; they are not eligible for re-election; the Registry, headed by the Registrar, is to be responsible for the nonjudicial aspects of the administration and servicing of the Court;

4. A situation in which one or more of such crimes appears to have been committed may be referred to the Prosecutor by a State Party or the Security Council acting under Chapter VII of the Charter of the United Nations; moreover, the Prosecutor may initiate investigations on the basis of information on crimes within the jurisdiction of the Court if the Pre-Trial Chamber,

having examined the supporting material collected by him, accedes to a request for authorisation;

5. The Pre-Trial Chamber, after investigation on the Prosecutor's request, has the sole power to order measures in restraint of personal freedom, such as a warrant of arrest or a summons to appear; that Chamber has the general power to monitor investigations and proceedings conducted by the Prosecutor; this power is exercised in particular as regards the collection, examination or verification of evidence for the purposes of a prosecution at the request of the Prosecutor or the accused; within a reasonable time after the person's surrender or voluntary appearance before the Court, the Pre-Trial Chamber is to hold a hearing to confirm the charges on which the Prosecutor intends to seek trial; the hearing is to be held in the presence of the Prosecutor and the person charged, as well as his or her counsel; at the hearing, the Prosecutor must support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged; in the absence of such evidence, it may either decline to confirm those charges in relation to which it has determined that there is insufficient evidence or request the Prosecutor to provide further evidence or conduct a further investigation;

6. The trial in the Trial Chamber begins only after confirmation of the charges; in the event of a guilty verdict, the Trial Chamber determines the sentence; an appeal may be lodged with the Appeals Chamber, which has the same powers as the Trial Chamber; the Appeals Chamber may reverse or amend the decision or sentence or order a new trial before a different Trial Chamber;

7. A sentence of imprisonment must be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons; if no State is designated, the sentence of imprisonment is served in a prison facility made available by the host State; the enforcement of a sentence of imprisonment is subject to the supervision of the Court;

ON PARAMETERS FOR REVIEW:

8. By the Preamble to the Constitution of 1958, "The French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946"; the Preamble to the 1946 Constitution declares also the safeguarding of the human person against all forms of servitude to be a constitutional principle;

9. Article 3 of the Declaration of Human and Civic Rights states that "the principle of any sovereignty lies primarily in the nation"; Article 3 of the Constitution of 1958 lays down, in its first paragraph, that "national sovereignty shall belong to the people, who shall exercise it through their representatives and by means of referendum";

10. The fourteenth paragraph of the Preamble to the Constitution of 1946 declares that the French Republic "shall respect the rules of public international law", and the fifteenth paragraph declares that "subject to reciprocity, France shall consent to the limitations upon its sovereignty necessary to the organisation and preservation of peace";

11. Article 53 of the 1958 Constitution, like Article 27 of the 1946 Constitution, enshrines the existence of "treaties or agreements relating to international organisation"; Article 55 of the 1958 Constitution provides: "Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament, subject, in regard to each agreement or treaty, to its application by the other party";

12. It follows from these constitutional provisions that respect for national sovereignty does not preclude France, on the base of the provisions referred to above of the Preamble to the 1946 Constitution, from concluding international commitments with a view to encouraging

peace and security in the world and to ensuring respect for the general principles of public international law; commitments entered into to this end can provide in particular for the establishment of a permanent international court to protect the fundamental rights belonging to any human person, by penalising the most serious attacks made on them, with power to judge those who commit crimes of such gravity that they affect the international community; given this object, the obligations flowing from such commitments must be imposed on all States Party whether or not they are implemented by the others; the condition of reciprocity provided for by Article 55 of the Constitution need not therefore be applied;

13. Where an international agreement contains a clause that is contrary to the Constitution or jeopardises the rights and freedoms secured by the Constitution, the authorisation to ratify it requires revision of the Constitution;

14. The Constitutional Council should review the Treaty laying down the Statute of the International Criminal Court signed in Rome on 18 July 1998 in the light of these principles;

ON RESPECT FOR THE PROVISIONS OF THE CONSTITUTION RELATING TO THE CRIMINAL RESPONSIBILITY OF THE HOLDERS OF CERTAIN OFFICIAL STATUSES:

15. Article 27(1) of the Statute of the International Criminal Court provides: “This Statute shall apply equally to all persons without any distinction based on official capacity; in particular, official capacity as a Head of State or Government, a member of a Government or Parliament ... shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence”; Article 27(2) further provides that “Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person;

16. By Article 68 of the Constitution, the President of the Republic may not be held liable for acts performed in the exercise of his duties except in the case of high treason; moreover, during his term of office he may be indicted only in the High Court of Justice by the procedure determined by that Article; it follows from Article 68-1 of the Constitution that Members of the Government may be held liable for acts performed in the exercise of their duties only by the Court of Justice of the Republic; by the first paragraph of Article 26 of the Constitution, Members of Parliament enjoy immunity in respect of the opinions expressed and the votes cast in the exercise of their duties; by the second paragraph, they may not be arrested for a serious crime or other major offence, nor be subjected to any other custodial or semi-custodial measure, without the authorisation of the bureau of the Assembly of which they are a member; such authorisation is not required in the case of a serious crime or other major offence committed *flagrante delicto* or a final sentence;

17. Article 27 of the Statute is accordingly contrary to the special rules governing liability laid down by Articles 26, 68 and 68-1 of the Constitution;

ON RESPECT FOR THE CONSTITUTIONAL PRINCIPLES APPLICABLE TO CRIMINAL LAW AND CRIMINAL PROCEDURE:

18. Article 5 confers on the International Criminal Court jurisdiction with regard to the crime of genocide, crimes against humanity, war crimes and of the crime of aggression; the Court may, however, exercise jurisdiction over the crime of aggression only once a provision is adopted amending the Statute in accordance with Articles 121 and 123;

19. Article 6 defines “genocide” as any of a series of specified acts “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”; Article 7 defines

“crime against humanity” as any of a series of acts “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”; Article 8 confers on the Court “jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes”;

20. Article 29 of the Statute provides: “The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations”; no constitutional rules or principles prohibit the provision that there may be no limitation period for the most serious crimes of international concern;

21. Article 66 affirms the presumption of innocence that is enjoyed by any person until his guilt has been proved to the satisfaction of the Court; it is for the Prosecutor to prove that the accused person is guilty; under Article 67, the accused is assured “not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal”; the requirements of Article 9 of the Declaration of Human and Civic Rights are accordingly met;

22. Article 22 of the Statute provides: “A person shall not be criminally responsible under this Statute unless his or her conduct constitutes, at the time it takes place, a crime within the jurisdiction of the Court”; the definition of a crime is subject to strict interpretation and cannot be extended by analogy; Article 25 defines the cases of personal criminal liability for which a person may be convicted; by Article 30, “a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge”; Articles 31 to 33 list the grounds for excluding criminal liability; the Statute accordingly determines with precision the scope of the offences and grounds for excluding liability and defines crimes, in terms both of their material elements and of their mental element, with such clarity and precision that offenders can be identified and arbitrary action excluded; the reasons that must be given for decisions given by the Pre-Trial Division in accordance with Article 74 and the reasons that must be given for judgments of the Appeal Division in accordance with Article 83 will help to avert the risk of arbitrary action; these provisions comply with the principle that offences and penalties must be defined by statute defined by Articles 7 and 8 of the Declaration of Human and Civic Rights;

23. Article 11(1) provides: “The Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute”; Article 24 lays down the principle of “non-retroactivity *ratione personae*” and the principle that “the law more favourable to the person being investigated, prosecuted or convicted shall apply”; this satisfies the principle that a more severe criminal statute cannot have retroactive effect implied by Article 8 of the Declaration of Human and Civic Rights;

24. Under Article 89 of the Statute, the Court may transmit a request for the arrest and surrender of a person to any State on the territory of which that person may be found and request the cooperation of that State in the arrest and surrender of such a person; when it submits such a request, the Court is in the exercise of its jurisdiction as defined by Articles 5 to 13 of the Statute, with regard to situations that have been presented to the Prosecutor or for which the Prosecutor opened an investigation of his own motion; the request for arrest and surrender relates either to a person who has already been found guilty by the Court or to a person for whose arrest a warrant has been issued by the Pre-Trial Chamber and of whom, under Article 58, there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court, his arrest being justified on one of the grounds stated in Article 58(1)(b); given the purpose of the surrender and the procedural guarantees implemented by the Court, it violates no constitutional principle or rule;

25. Under Article 59, a State Party which has received a request for provisional arrest or for arrest and surrender shall immediately take steps to arrest the person in question in accordance with its laws; a person arrested shall be brought promptly before the competent

judicial authority in the custodial State, in accordance with the law of that State, particularly regarding the regularity of the arrest and compliance with the individual's rights; the person arrested shall have the right to apply to the competent authority in the custodial State for interim release; respect for natural justice is thus secured from the initial procedure before the Court and during the trial; in particular, Article 55 provides that the person may have legal assistance of the person's choosing or, if the person does not have legal assistance, to have legal assistance assigned to him or her when being questioned either by the Prosecutor, or by national authorities; the Pre-Trial Chamber of the Court has the sole power to issue warrants, and particularly arrest warrants; a person brought before the Court may apply for interim release pending judgment; Article 60 requires the Pre-Trial Chamber to periodically review its ruling on the release or detention of the person; it must ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor; the Trial Chamber is required by Article 64 to "ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses"; trials are to be in public, though the Trial Chamber may determine that special circumstances require that certain proceedings be in closed session; sentencing is to be at a public hearing; the constitutional requirements relating to natural justice and to the existence of a fair procedure guaranteeing balance as between the rights of the parties are thus satisfied;

26. Article 23 specifies that a person convicted by the Court may be punished only in accordance with this Statute; the sentences that may be passed on a person convicted of a crime are determined by Article 77; in determining the sentence, the Court is required by Articles 76 and 78 to take into account such factors as the evidence presented and submissions made during the trial that are relevant to the sentence and the gravity of the crime and the individual circumstances of the convicted person; these rules are in accordance with the principles that penalties must be necessary and defined by statute;

27. The judges of the Court are independent in the performance of their functions, as Articles 40 and 48 of the Statute provide for such privileges and immunities as are necessary; moreover, the judges assigned to the appeals section may not sit in other sections; Articles 41 and 42 of the Statute determine the procedure for excusing and disqualifying judges and Prosecutors; and Article 46 provides for the procedure whereby a member of the Court may be removed from office in the event of a serious breach of his or her duties; the requirement that the Court be independent and impartial is thus satisfied;

28. Articles 81 to 83 of the Statute allow appeals against certain decisions of the Pre-Trial Chamber and decisions of the Court sitting in Trial Chamber formation; Article 84 establishes a procedure for revision of conviction or sentence; Article 85 establishes a procedure for anyone who has been the victim of unlawful arrest or detention and for any person who has been sentenced following a conviction subsequently reversed; compensation may also be granted in the event of serious and clear miscarriage of justice; Article 68 requires the Court to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses, in particular by departing from the principle of the public proceedings with regard to vulnerable persons; Article 75 requires the Court to establish principles relating to compensation for victims; on this basis the Court may determine the scope and extent of any damage, loss and injury to, or in respect of, victims; the Court may order that the award for reparations be made through the Trust Fund established by decision of the Assembly of States Parties; these rules are constitutional;

ON RESPECT FOR THE ESSENTIAL CONDITIONS FOR EXERCISE OF NATIONAL SOVEREIGNTY:

Regarding complementarity between the International Criminal Court and the national courts:

29. The tenth paragraph of the Preamble and Article 1 of the Statute stipulate that the Court is to be complementary to national criminal jurisdictions; this complementarity implies, as is clear from Articles 17 and 20 of the Statute, that a case must be declared inadmissible by the Court where it is being investigated or prosecuted by a State which has jurisdiction over it, or where, after investigation, the State has decided not to prosecute the person concerned, or when the person concerned has already been tried for conduct which is the subject of the complaint'; Article 18 further requires the Prosecutor to notify the State concerned that an investigation is being or has been opened and allows a State to inform the Court that it is investigating or has investigated its nationals or others within its jurisdiction with respect to criminal acts which relate to the information provided in the notification to States; at its request, the State may be entrusted with responsibility for the investigation, unless the Pre-Trial Chamber authorises the Prosecutor to conduct it;

30. However, notwithstanding the principle of complementarity, Article 17(1) empowers the Court to admit a case where the State is unwilling or unable genuinely to carry out the investigation or prosecution or where the State has decided not to prosecute the person concerned; Article 17(2) specifies the mandatory criteria whereby the Court is to determine whether a state is unwilling; unwillingness may be determined only if the state's decision is taken for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court, or if there has been an unjustified delay in the proceedings which is inconsistent with an intent to bring the person concerned to justice, or if the proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice; moreover, under Article 20 of the Statute, a person who has tried by another court for a crime referred to in Article 5 may be tried by the Court with respect to the same conduct if the proceedings in the other court were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court or were not conducted independently or impartially in accordance with the norms of due process recognised by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice;

31. Moreover, the Court may try an admissible case where the State having jurisdiction is unable genuinely to carry out the investigation or prosecution, or unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute; according to Article 17(3), this inability is determined by reference to a situation in which, "due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings";

32. On the one hand, the provisions of the treaty which restrict the principle of complementarity between the Court and the national criminal courts in cases where a State Party state deliberately evades the obligations imposed by the convention arise from the *pacta sunt servanda* rule, whereby any treaty in force binds the parties and must be executed by them in good faith; these provisions exhaustively and objectively determine the circumstances in which the International Criminal Court will be able to declare that it has jurisdiction; the essential conditions for the exercise of national sovereignty are accordingly not violated by them;

33. On the other hand, the provisions empowering the Court to declare that it has jurisdiction in the event of the collapse or inability of the national legal system do not violate the essential conditions for the exercise of national sovereignty;

34. By opposite, under the Statute, the International Criminal Court could be validly seised on the grounds of an amnesty statute or internal rules on limitation; in such a case, France, even if a State were neither unwilling nor unable to act, might be required to arrest and surrender to the Court a person accused of conduct covered by an amnesty or limitation period in French law; this would violate the essential conditions for the exercise of national sovereignty;

Regarding to international cooperation, judicial assistance and the Prosecutor's powers:

35. Article 54 of the Statute defines the Prosecutor's duties and powers as regards investigations; he must, in order to conduct an investigation, seek the cooperation of the States; he may also conduct investigations in the territory of a State; in such an event, he must comply either with Part IX (international cooperation and judicial assistance), or with Article 57(3)(d);

36. Part IX empowers the Court to send requests for cooperation and for assistance to the States parties; States accede to such requests in accordance with the procedures available under their national law, in particular with regard to identification and questioning, the taking of evidence, the implementation of searches and the seizures; Article 93 further provides that, where execution of a particular measure of assistance detailed in a request presented under paragraph 1 is prohibited in the requested State on the basis of an existing fundamental legal principle of general application, the requested State is not required to support assistance under the form requested by the Court but must consult with the Court; pursuant to the same Article, in accordance with Article 72, a State Party may deny a request for assistance, in whole or in part, only if the request concerns the production of any documents or disclosure of evidence which relates to its national security; Articles 94 and 95 provide for procedures for postponement of execution of a request; these secure respect for the essential conditions for the exercise of national sovereignty;

37. Article 57(3)(d) empowers the Prosecutor, as authorised by the Pre-Trial Chamber, to take specific investigative steps within the territory of a State Party without having secured the cooperation of that State only if that State is clearly unable to execute a request for cooperation due to the unavailability of any authority or any component of its judicial system competent to execute the request; these provisions do not violate the essential conditions for the exercise of national sovereignty;

38. By opposite, pursuant to Article 99(4) of the Statute, the Prosecutor may, even where the national legal system is unavailable, take certain investigation steps on the territory of a requested State Party without the presence of the authorities of the State; in particular, he may interview or take evidence from a person and examine a public site or other public place; in the absence of special circumstances, even if these measures are carried out without coercive force, the power conferred on the Prosecutor to carry out these measures without the presence of the competent French legal authorities is liable to violate the essential conditions for the exercise of national sovereignty;

Regarding the enforcement of sentences passed by the International Criminal Court:

39. Pursuant to Article 103 of the Statute, at the time of declaring its willingness to accept sentenced persons, a State may attach conditions to its acceptance as agreed by the Court; these may materially affect the terms or extent of the imprisonment;

40. The effect of these provisions is that France, while declaring its willingness to accept sentenced persons, may attach conditions to its acceptance covering, in particular, the application of national legislation concerning the enforcement of the prison sentences; it will also be able to grant to convicted persons total or part exemption from the execution of sentences based on the exercise of the law relating to pardons; the provisions of Part IX of the Statute relating to the enforcement of sentences accordingly violate neither the essential conditions for the exercise of national sovereignty nor Article 17 of the Constitution;
41. None of the other provisions of the Treaty referred to the Constitutional Council under Article 54 of the Constitution is unconstitutional;
42. For the reasons stated above, authorisation to ratify the treaty laying down the Statute of the International Criminal Court requires amendment of the Constitution;

Has decided as follows:

Article 1

Authorisation to ratify the treaty laying down the Statute of the International Criminal Court requires amendment of the Constitution.

Article 2

This decision shall be notified to the President of the Republic and published in the *Journal officiel de la République française*.

Deliberated by the Constitutional Council at its sitting of 22 January 1999, presided by Mr Roland DUMAS and attended by Mr George ABADIE, Mr Michel AMELLER, Mr Jean-Claude COLLIARD, Mr Yves GUENA, Ms Noëlle LENOIR, Mr Pierre MAZEAUD and Ms Simone VEIL.