

Treatment of questions referred for a preliminary ruling concerning the area of freedom, security and justice - Amendments to the Protocol on the Statute of the Court of Justice

2007/0812(CNS) - 13/07/2007 - Legislative proposal

PURPOSE: to introduce, in specified areas, an urgent preliminary ruling procedure which derogates from certain provisions of the Statute of the Court of Justice.

PROPOSED ACT: Council Decision.

BACKGROUND: the urgent procedure proposed for references for a preliminary ruling in the areas covered by Title VI of the EU Treaty (police and judicial cooperation in criminal matters) and Title IV of Part Three of the EC Treaty (visas, asylum, immigration and certain aspects of conflict of laws) derogates in a number of respects from the provisions of the Statute.

The written procedure is limited to some of the players referred to in Article 23 of the Statute, and the period prescribed for the lodging of their written observations is not two months, as laid down in that Article, but is fixed by the Court. For the others, the procedure is limited to the oral part, whereas both Article 20 and Article 23 of the Statute provide for a written part. The oral part does not include any formal submissions from the Advocate General, whereas Article 20 of the Statute provides that the oral part of the procedure is to include submissions, except where the Court decides otherwise because the case raises no new point of law.

It appears necessary to incorporate a provision in the Statute authorising these derogations. It may also be appropriate to include in such a provision a reference to the expedited and accelerated procedures, which, as set out in the Rules of Procedure for direct actions (Article 62a) and references for a preliminary ruling (Article 104a) respectively, may already appear to derogate from Articles 20 and 23 of the Statute.

CONTENT: Mr Vassilios SKOURIS, President of the Court of Justice, request that the Council amend the Protocol on the Statute of the Court of Justice with a view to allowing provisions to be made to allow derogations from certain provisions of the Protocol on the Statute of the Court of Justice with regard to the procedure governing urgent references for a preliminary ruling in specified areas, and it is appropriate, for the sake of good order, that the provision authorising such derogations should also refer to the expedited and accelerated procedures laid down in the Rules of Procedure of the Court of Justice.