

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) - 20/11/2007

The Committee on Legal Affairs adopted the report by Diana WALLIS (ALDE, UK) without amendment - under the consultation procedure - on the draft Council decision amending the Protocol on the Statute of the Court of Justice with regard to the treatment of questions referred for a preliminary ruling concerning the area of freedom, security and justice.

In the report's explanatory memorandum, the rapporteur has however expressed some concerns:

- 1) the proposed urgent procedure will not include any written and reported submissions from the Advocate General, although he or she will still advise the Chamber orally in the course of its deliberations. The rapporteur believes that such a measure could, on the contrary, be of great benefit to the referring court, as well as other national courts by helping them to clarify Community law, thus potentially reducing the need for further references.
- 2) it is important for the Court to have sufficient discretion to decide for itself which cases will be dealt with under the urgent procedure. The Court, having virtually no control over its incoming workflow, needs a degree of flexibility and autonomy in order to deal with fluctuations in its caseload.
- 3) the Court's autonomy to solve issues concerning its own procedure is curtailed. Whilst understanding that Member States wish to preserve their right to participate effectively in cases before the Court, a way has to be found for the Court to be able to adapt more swiftly and independently to change in the future.
- 4) the rapporteur considers that the moment is now ripe to start considering the organisational structure and composition of the Court (here understood in the widest sense, including the Court of First Instance and the Staff Tribunal) in the longer term.