Basic information

2003/0820(CNS) CNS - Consultation procedure Decision	Procedure completed
Court of Justice: review of decisions delivered by the Court of First Instance, Protocol on the Statute **Subject** 8.40.04 Court of Justice, Court of First Instance	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	JURI Legal Affairs and Internal Market	ROTHLEY Willi (PSE)	06/11/2003

Council of the European Union	**Council configuration**	**Meetings**	**Date**
	General Affairs	2678	2005-10-03

Key events

Date	Event	Reference	Summary
12/09/2003	Legislative proposal published	12464/2003	Summary
08/10/2003	Committee referral announced in Parliament		
27/01/2004	Vote in committee		Summary
27/01/2004	Committee report tabled for plenary, 1st reading/single reading	A5-0049/2004	
10/02/2004	Decision by Parliament	T5-0072/2004	Summary
03/10/2005	Act adopted by Council after consultation of Parliament		
03/10/2005	End of procedure in Parliament		
11/10/2005	Final act published in Official Journal		

Technical information

Procedure reference	2003/0820(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 225-p2/3 EC Treaty (after Amsterdam) EC 245-p2

Stage reached in procedure	Procedure completed
Committee dossier	JURI/5/20174

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0049/2004	27/01/2004	
Text adopted by Parliament, 1st reading/single reading		T5-0072/2004 OJ C 097 22.04.2004, p. 0031-0082 E	10/02/2004	Summary

Council of the EU

Document type	Reference	Date	Summary
Legislative proposal	12464/2003	12/09/2003	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	SEC(2005)0207	11/02/2005	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2005/0696
OJ L 266 11.10.2005, p. 0060-0061 Summary

Court of Justice: review of decisions delivered by the Court of First Instance, Protocol on the Statute

2003/0820(CNS) - 03/10/2005 - Final act

PURPOSE : to amend the Protocol on the Statute of the Court of Justice

LEGISLATIVE ACT : Council Decision 2005/696/EC, Euratom amending the Protocol on the Statute of the Court of Justice, in order to lay down the conditions and limits for the review by the Court of Justice of decisions given by the Court of First Instance

CONTENT : This Council Decision gives effect to certain provisions of the Nice Treaty which affect the European Court of Justice.

Article 225 of the EC Treaty as amended by the Treaty of Nice provides that decisions given by the Court of First Instance hearing and determining actions or proceedings brought against decisions of the judicial panels set up under Article 225a and decisions given on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

Article 62 of the new Statute of the Court of Justice, annexed to the Treaty of Nice, also provides that the proposal for review of the decision of the Court of First Instance may be made by the First Advocate General where he or she considers that the condition laid down in Article 225 is satisfied, namely, that there is a serious risk of the unity or consistency of Community law's being affected.

This Decision amends the Statute to give effect to both the detailed procedural rules for the conduct of the review procedure and the effects of that procedure on the substance of the action and the interests of the parties.

ENTRY INTO FORCE : 11/10/2005.

Court of Justice: review of decisions delivered by the Court of First Instance, Protocol on the Statute

2003/0820(CNS) - 10/02/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Willi ROTHLEY (PES, D) approving the proposal.

Court of Justice: review of decisions delivered by the Court of First Instance, Protocol on the Statute

2003/0820(CNS) - 11/02/2005 - Document attached to the procedure

The European Commission has delivered its opinion on the request to amend the Statute of the Court of Justice, presented by the Court of Justice in accordance with the second paragraph of Article 245 of the EC Treaty, to lay down the conditions and limits for review by the Court of Justice of decisions delivered by the Court of First Instance under Article 225(2) and (3) of the EC Treaty.

The Commission considers that the provisions relating to the review procedure should:

a) establish the suspensory nature of the request for review and of the decision to invoke the review procedure;

b) stipulate that the decisions of the Court of First Instance under Article 225(2) and (3) of the Treaty will be considered as final judgments:

- after the onemonth period referred to in the second paragraph of Article 62 of the Statute, provided that the First Advocate General has not proposed a review of the decision, and

- where the First Advocate General has proposed a review, at the end of the second onemonth period referred to in the second paragraph of Article 62 of the Statute, where the Court has decided not to open the review procedure;

c) establish an emergency procedure;

d) establish an appropriate time limit for the handing down of the judgment to be notified to the parties or to the national court.

The Commission considers that, in line with Declaration No 14 of the Treaty of Nice, it would be useful to establish an evaluation mechanism for the review procedure.

Court of Justice: review of decisions delivered by the Court of First Instance, Protocol on the Statute

2003/0820(CNS) - 12/09/2003 - Legislative proposal

PURPOSE : to amend the Protocol on the Statute of the Court of Justice to lay down the conditions and limits for review by the Court of Justice of decisions delivered by the Court of First Instance. PROPOSED ACT : Council Decision. CONTENT : it follows from, in particular, Declaration No 13 adopted on 26 February 2001 at the Nice Summit that the Conference of the Representatives of the Governments of the Member States considered that the essential provisions of the review procedure in Article 225, paragraphs 2 and 3 of the EC Treaty should be defined in the Statute of the Court of Justice. The purpose of the current draft Council Decision is to act on that declaration. Article 225, paragraphs 2 and 3 of the EC Treaty as amended by the Treaty of Nice provides that decisions given by the Court of First Instance hearing and determining actions or proceedings brought against decisions of the judicial panels set up under Article 225a and decisions given on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected. Article 62 of the new Statute of the Court of Justice, annexed to the Treaty of Nice, also provides that the proposal for review of the decision of the Court of First Instance may be made by the First Advocate General where he or she considers that the condition laid down in Article 225 is satisfied, namely, that there is a serious risk of the unity or consistency of Community law's being affected. That

proposal must be made within one month of delivery of the decision of the Court of First Instance and the Court of Justice must then decide within one month of receiving the proposal whether or not the decision ought to be reviewed. It is therefore necessary to lay down in the Statute both the detailed procedural rules for the conduct of the review procedure and the effects of that procedure on the substance of the action and the interests of the parties. The proposed Decision is base don't he following provisions: - suspensory effect : the first measure required, which is the subject-matter of Article 62a, is to provide that review is not to have suspensory effect; - observance of the adversarial principle : it would seem essential to ensure that the adversarial principle is observed, while avoiding unnecessary prolongation of the proceedings; - references for a preliminary ruling : With regard to review of a decision of the Court of First Instance given on a question referred for a preliminary ruling (Article 225(3) EC), it appears necessary for the "new interpretation" of the Community rule as it emerges from that review to be able to produce its full effect immediately; - direct actions : it is proposed as a general rule that when the Court of Justice receives a proposal for review made by the First Advocate General, if it considers that the proposal is justified and after requesting the parties to the proceedings before the Court of First Instance, the Member States and the institutions to submit observations, it should rule on the point of law subject to review and refer the case back to the Court of FirstInstance for the latter to apply to the action the principles of law as they emerge from the Court's decision. It is however proposed that in exceptional circumstances the Court of Justice should have the power to give final judgment if the outcome of the proceedings depends on the answer in law given on review and on the analysis of the facts as found in the Court of First Instance's judgment. - practice rules for the review procedure : in order to supplement the text of the Statute, pursuant to Article 63 of the Statute the Rules of Procedure of the Court of Justice and the Court of First Instance are to lay down the practical provisions governing procedure. In preliminary reference proceedings it will be essential in particular to provide for the national court to be kept informed as to the initiation and progress of the review procedure, so that it may await the adoption of a position by the Court of Justice in full knowledge of all the circumstances before it gives its decision on the dispute in the main proceedings.