

Basic information	
2007/0812(CNS) CNS - Consultation procedure Decision	Procedure completed
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 Subject 7 Area of freedom, security and justice 8.40.04 Court of Justice, Court of First Instance	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	JURI Legal Affairs		WALLIS Diana (ALDE)	03/10/2007
	Committee for opinion		Rapporteur for opinion	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		The committee decided not to give an opinion.	
Council of the European Union	Council configuration		Meetings	Date
	Environment		2842	2007-12-20
European Commission	Commission DG		Commissioner	
	Justice and Consumers		FRATTINI Franco	

Key events			
Date	Event	Reference	Summary
13/07/2007	Legislative proposal published	11824/2007	Summary
24/09/2007	Committee referral announced in Parliament		
20/11/2007	Vote in committee		Summary
21/11/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0451/2007	
29/11/2007	Decision by Parliament	T6-0553/2007	Summary
29/11/2007	Results of vote in Parliament		

20/12/2007	Act adopted by Council after consultation of Parliament		
20/12/2007	End of procedure in Parliament		
29/01/2008	Final act published in Official Journal		

Technical information	
Procedure reference	2007/0812(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Euratom Treaty A 160-p2 EC Treaty (after Amsterdam) EC 245-p2
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/53295

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE396.454	22/10/2007	
Committee report tabled for plenary, 1st reading/single reading		A6-0451/2007	21/11/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0553/2007	29/11/2007	Summary
Council of the EU				
Document type	Reference	Date	Summary	
Legislative proposal	11824/2007	13/07/2007	Summary	
European Commission				
Document type	Reference	Date	Summary	
Document attached to the procedure	SEC(2007)1540 	20/11/2007	Summary	

Additional information		
Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

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) - 29/11/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a report drawn up by Diana **WALLIS** (ALDE, UK) and approved 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.

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.

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 - Document attached to the procedure

COMMISSION OPINION on the request to amend the Statute of the Court of Justice, presented by the Court under the second paragraph of Article 245 of the EC Treaty, with a view to allowing the introduction, in certain areas, of an urgent preliminary ruling procedure derogating from certain provisions of the Statute.

To recall, in July 2007 the European Court of Justice sent two requests to the Commission and the Council. The first concerns an insertion into the Court's Statute for a new Article 23a, which reads as follows:

"The Rules of Procedure may provide for an expedited or accelerated procedure and, for references for a preliminary ruling in specified areas, an urgent procedure, derogating from the provisions of Articles 20 and 23 of this Statute."

At the same time, the Court also requested that an accelerated procedure be adopted concerning preliminary rulings relating to Title VI of the TEU or Title IV Part Three of the TEU (area of freedom, security and justice).

The Commission welcomes both initiatives. The introduction of a new procedure is essential to safeguarding effective judicial protection and to guaranteeing a uniform interpretation of EU law within the time limits laid down in this field. The Commission concurs with the view that the Court must be in a position to respond speedily to questions referred for a preliminary ruling in the course of urgent national judicial proceedings.

Further, the Commission acknowledges that urgent requests of this kind are more likely to arise in future given that the area of liberty, security and justice is a dynamic process. Examples include asylum applications; expulsion decisions issued under immigration law; cases relating to parental responsibility; the enforcement of European arrest warrants; and cases involving the detention of a suspect.

The Commission's Opinion states that the new urgent preliminary ruling procedure must include the following elements:

- it must be quick in order to ensure the effective judicial protection of those who seek it;
- it must be flexible to allow for differing national time limits;
- it must comply with the adversarial principle;
- it must allow the Court to obtain information through the participation of the Commission, the Member States (in which the case originated); Parliament and the Council in cases involving their legal acts;
- it must allow for the intervention and contribution of other Member States; and
- it must not have the effect of delaying other cases pending before the Court.

The procedures proposed by the Council appears to have struck the right balance between all of these requirements and for that reason the Commission hopes it can be adopted as soon as possible and without significant change.

Given that the proposed procedure necessarily derogates from several Statute provisions, the Commission recommends that a provision authorising these derogations must be inserted into the Statute.

Regarding the wording of Article 23a the Commission would like to make one observation of a legal nature namely a more concise wording:

"The Rules of Procedure may provide for an expedited or accelerated procedure and, for references for a preliminary ruling concerning the area of freedom, security and justice, an urgent procedure, derogating from the provisions of Articles 20 and 23 of this Statute."

Based on the above analysis the Commission delivers a favourable opinion, subject to the change in the preceding paragraph.

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) - 20/12/2007 - Final act

PURPOSE: to allow the introduction, in certain areas, of an urgent preliminary ruling procedure derogating from certain provisions of the Statute of the Court of Justice.

LEGISLATIVE ACT: Council Decision 2008/79/EC, Euratom, amending the Protocol on the Statute of the Court of Justice.

CONTENT: the aim of the Decision is to amend the Protocol on the Statute of the Court of Justice, in order 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 concerning the area of freedom, security and justice. For the sake of good order, the provision authorising such derogations also refers to the expedited and accelerated procedures laid down in the Rules of Procedure of the Court of Justice.

ENTRY INTO FORCE: 01/02/2008