



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

from : Mr Vassilios SKOURIS, President of the Court of Justice of the European Communities
dated : 11 July 2007
to : Mr Luis Amado, President of the Council of the European Union

Subject : 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
= Draft Council Decision

Mr President,

With reference to the second paragraph of Article 245 of the EC Treaty and the second paragraph of Article 160 of the EAEC Treaty, I am writing to request that the Council amend the Protocol on the Statute of the Court of Justice in the manner laid down in the draft Council Decision enclosed with this letter.

The proposed amendment relates to the introduction, in specified areas, of an urgent preliminary ruling procedure which derogates from certain provisions of the Statute.

For the record, I would draw your attention to the fact that I am sending you today, by separate letter, and for the Council's approval, draft amendments to the Rules of Procedure of the Court of Justice regarding the introduction of an urgent preliminary ruling procedure for certain references for a preliminary ruling relating to the area of freedom, security and justice.

The draft Council Decision is attached in all the official languages and is accompanied by an explanatory memorandum, to which reference should be made.

(Complimentary close).

Vassilios SKOURIS

DRAFT

AMENDMENTS TO THE STATUTE OF THE COURT OF JUSTICE

The urgent procedure proposed for references for a preliminary ruling in the areas covered by Title VI of the EU Treaty and Title IV of Part Three of the EC Treaty 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.

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 245 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 160 thereof,

Having regard to the request of the Court of Justice of ,

Having regard to the opinion of the Commission of ,

Having regard to the Opinion of the European Parliament of ,

Whereas:

Provision should 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,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol on the Statute of the Court of Justice is amended as follows:

The following Article shall be inserted after Article 23:

"Article 23a

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."

Article 2

This decision shall enter into force on the first day of the second month following its publication in the *Official Journal of the European Union*.

