

RULES OF PROCEDURE

AMENDMENTS TO THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

THE COURT,

Having regard to the Treaty establishing the European Community, and in particular the sixth paragraph of Article 223 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the sixth paragraph of Article 139 thereof,

Whereas:

- (1) References for a preliminary ruling which may be submitted to the Court of Justice in the areas covered by Title VI of the Treaty on European Union or Title IV of Part Three of the Treaty establishing the European Community, which seek to maintain and develop an area of freedom, security and justice, require, in certain cases, a rapid response from the Court by reason of the urgency with which the case has to be dealt with before the national court or tribunal.
- (2) The normal preliminary ruling procedure, as set out in Article 23 of the Statute of the Court of Justice and in the Rules of Procedure, does not allow the Court to rule on the questions submitted to it with the rapidity required in the types of case referred to above. The accelerated procedure provided for in Article 104a of the Rules of Procedure for references for a preliminary ruling comprises the same stages as the normal procedure for preliminary rulings and can be applied only in exceptional cases, since acceleration is achieved primarily by giving priority to the reference for a preliminary ruling in question over all other pending cases at all stages of the proceedings.
- (3) It is possible to deal rapidly with a significant number of references for a preliminary ruling only by introducing an urgent preliminary ruling procedure which limits and simplifies the stages of the preliminary ruling procedure.

With the Council's approval given on 20 December 2007,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The Rules of Procedure of the Court of Justice of the European Communities of 19 June 1991 (OJ L 176, 4.7.1991, p. 7, with corrigendum in OJ L 383, 29.12.1992, p. 117), as amended on 21 February 1995 (OJ L 44, 28.2.1995, p. 61), 11 March 1997 (OJ L 103, 19.4.1997, p. 1, with corrigendum in OJ L 351, 23.12.1997, p. 72), 16 May 2000 (OJ L 122, 24.5.2000, p. 43), 28 November 2000 (OJ L 322, 19.12.2000, p. 1), 3 April 2001 (OJ L 119, 27.4.2001, p. 1), 17 September 2002 (OJ L 272, 10.10.2002, p. 24, with corrigendum in OJ L 281, 19.10.2002, p. 24), 8 April 2003 (OJ L 147, 14.6.2003, p. 17), 19 April 2004 (OJ L 132, 29.4.2004, p. 2), 20 April 2004 (OJ L 127, 29.4.2004, p. 107), 12 July 2005 (OJ L 203, 4.8.2005, p. 19), 18 October 2005 (OJ L 288, 29.10.2005, p. 51) and 18 December 2006 (OJ L 386, 29.12.2006, p. 44) are hereby amended as follows:

1. Article 9 shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

'1. The Court shall set up Chambers of five and three Judges in accordance with Article 16 of the Statute and shall decide which Judges shall be attached to them.'

The Court shall designate the Chamber or Chambers of five Judges which, for a period of one year, shall be responsible for cases of the kind referred to in Article 104b.

The composition of the Chambers and the designation of the Chamber or Chambers responsible for cases of the kind referred to in Article 104b shall be published in the *Official Journal of the European Union*.

- (b) The following two subparagraphs shall be added to paragraph 2:

‘For cases of the kind referred to in Article 104b, the Judge-Rapporteur shall be selected from among the Judges of the Chamber designated in accordance with paragraph 1 of this Article, on a proposal from the President of that Chamber. If the Chamber decides that the case is not to be dealt with under the urgent procedure, the President of the Court may reassign the case to a Judge-Rapporteur attached to another Chamber.

The President of the Court shall take the necessary steps if a Judge-Rapporteur is absent or prevented from acting.’

2. The following shall be added after Article 104a:

‘Article 104b

1. A reference for a preliminary ruling which raises one or more questions in the areas covered by Title VI of the Union Treaty or Title IV of Part Three of the EC Treaty may, at the request of the national court or tribunal or, exceptionally, of the Court’s own motion, be dealt with under an urgent procedure which derogates from the provisions of these Rules.

The national court or tribunal shall set out, in its request, the matters of fact and law which establish the urgency and justify the application of that exceptional procedure and shall, insofar as possible, indicate the answer it proposes to the questions referred.

If the national court or tribunal has not submitted a request for the urgent procedure to be applied, the President of the Court may, if the application of that procedure appears, *prima facie*, to be required, ask the Chamber referred to below to consider whether it is necessary to deal with the reference under that procedure.

The decision to deal with a reference for a preliminary ruling under the urgent procedure shall be taken by the designated Chamber, acting on a report of the Judge-Rapporteur and after hearing the Advocate General. The composition of that Chamber shall be determined in accordance with Article 11c on the day on which the case is assigned to the Judge-Rapporteur if the application of the urgent procedure is requested by the national court or tribunal, or, if the application of that procedure is considered at the request of the President of the Court, on the day on which that request is made.

2. A reference for a preliminary ruling of the kind referred to in the preceding paragraph shall, where the national court or tribunal has requested the application of the urgent procedure or where the President has requested the designated Chamber to consider whether it is necessary to deal with the reference under that procedure, be notified forthwith by the Registrar to the parties to the action before the national court or tribunal, to the Member State from which the reference is made and to the institutions referred to in the first paragraph of Article 23 of the Statute, in accordance with that provision.

The decision as to whether or not to deal with the reference for a preliminary ruling under the urgent procedure shall be notified forthwith to the national court or tribunal and to the parties, Member State and institutions referred to in the preceding subparagraph. The decision to deal with the reference under the urgent procedure shall prescribe the period within which those parties or entities may lodge statements of case or written observations. The decision may specify the matters of law to which such statements of case or written observations must relate and may specify the maximum length of those documents.

As soon as the notification referred to in the first subparagraph above has been made, the reference for a preliminary ruling shall also be communicated to the interested persons referred to in Article 23 of the Statute, other than the persons notified, and the decision whether or not to deal with the reference for a preliminary ruling under the urgent procedure shall be communicated to those interested persons as soon as the notification referred to in the second subparagraph has been made.

The parties and other interested persons referred to in Article 23 of the Statute shall be informed as soon as may be possible of the foreseeable date of the hearing.

Where the reference is not to be dealt with under the urgent procedure, the proceedings shall continue in accordance with the provisions of Article 23 of the Statute and the applicable provisions of these Rules.

3. A reference for a preliminary ruling which is to be dealt with under an urgent procedure, together with the statements of case or written observations which have been lodged, shall be served on the persons referred to in Article 23 of the Statute other than the parties and the entities referred to in the first subparagraph of the preceding paragraph of this Article. The reference for a preliminary ruling shall be accompanied by a translation, where appropriate in summary form, in accordance with Article 104(1).

The statements of case or written observations which have been lodged shall also be served on the parties and the other persons referred to in the first subparagraph of Article 104b(2).

The date of the hearing shall be notified to the parties and those other persons at the same time as the documents referred to in the preceding paragraphs are served.

4. The Chamber may, in cases of extreme urgency, decide to omit the written part of the procedure referred to in the second subparagraph of paragraph 2 of this Article.

5. The designated Chamber shall rule after hearing the Advocate General.

It may decide to sit in a formation of three Judges. In that event, it shall be composed of the President of the designated Chamber, the Judge-Rapporteur and the first Judge or, as the case may be, the first two Judges designated from the list referred to in Article 11c(2) on the date on which the composition of the designated Chamber is determined in accordance with the fourth subparagraph of paragraph 1 of this Article.

It may also decide to refer the case back to the Court in order for it to be assigned to a formation composed of a greater number of Judges. The urgent procedure shall continue before the new formation, where necessary after the reopening of the oral procedure.

6. The procedural documents referred to in this Article shall be deemed to have been lodged on the transmission to the Registry, by telefax or other technical means of communication available to the Court, of a copy of the signed original and the documents relied on in support of it, together with the schedule referred to in Article 37(4). The original of the document and the annexes referred to above shall be sent to the Registry.

Where this Article requires that a document be notified to or served on a person, such notification or service may be effected by the transmission of a copy of the document by telefax or other technical means of communication available to the Court and the addressee.'

Article 2

These amendments to the Rules of Procedure, which are authentic in the languages referred to in Article 29(1) of these Rules, shall be published in the Official Journal of the European Union and shall enter into force on the first day of the second month following their publication.

Done at Luxembourg, 15 January 2008.
