



**COUNCIL OF
THE EUROPEAN UNION**

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INTRODUCTORY NOTE

from: General Secretariat of the Council

to: Permanent Representatives Committee/Council

Nos prev. docs: 13272/06 JUR 356 COUR 42 JUSTCIV 208 ASIM 66 JAI 513
17013/06 JUR 493 COUR 71 JUSTCIV 290 ASIM 102 JAI 732
6900/07 JUR 84 COUR 8 JUSTCIV 41 ASIM 20 JAI 107

Subject: Treatment of questions referred for a preliminary ruling concerning the area of freedom, security and justice
– Draft letter to the President of the Court of Justice of the European Communities

1. On 25 September 2006 the President of the Court of Justice of the European Communities sent the President of the Council a letter setting out some thoughts on the treatment of questions referred for a preliminary ruling concerning the area of freedom, security and justice (13272/06 JUR 356 COUR 42 JUSTCIV 208 ASIM 66 JAI 513). A supplement to that discussion paper was received on 22 December 2006 (17013/06 JUR 493 COUR 71 JUSTCIV 290 ASIM 102 JAI 732). The Court of Justice asked for the Council's observations or suggestions in that connection.

2. On the basis of its meetings on 29 January, 19 February and 19 March 2007, the Working Party on the Court of Justice has unanimously agreed on a draft reply in the form of a letter to the President of the Court of Justice.
3. The Permanent Representatives Committee is asked to submit the attached draft letter to the Justice and Home Affairs Council for approval at its meeting on 19 April 2007.

Dear President,

In your letter of 25 September 2006, you forwarded to the Council a discussion paper drawn up by the Court of Justice on the establishment of a procedure enabling the Court to rule quickly on questions referred for a preliminary ruling concerning the area of freedom, security and justice. In that paper, a supplement to which you transmitted in your letter of 22 December 2006, two options were presented. You asked for any observations or suggestions the Council might wish to make in that connection.

The Council thanks the Court of Justice for its valuable thoughts on possible ways to speed up proceedings and on the form they would take. It welcomes the Court of Justice's intention to make proposals for the introduction of an emergency preliminary ruling procedure.

The Council shares the Court of Justice's view that such an emergency preliminary ruling procedure should in principle be applicable in the whole area of freedom, security and justice (Title VI of the EU Treaty and Title IV of Part Three of the EC Treaty). Within this field the emergency preliminary ruling procedure could be applied in accordance with urgency criteria to be defined more precisely.

The form of the emergency preliminary ruling procedure must take equal account of the need for a rapid ruling in urgent proceedings and of the necessity for Member States to have an effective opportunity to participate.

The Council could accept an acceleration of preliminary ruling proceedings on the basis of the second option.

Some Member States consider it necessary to make certain amendments and clarifications regarding this option, only the broad guidelines of which are known as yet.

All the Member States endorse the objective of a clear acceleration of urgent preliminary ruling proceedings concerning the area of freedom, security and justice. Any amendments to and clarifications of the second option should therefore not compromise the objective pursued by the Court of Justice.

I hope that the above comments will be useful for the Court of Justice in its consideration of proposals for the amendment of the Statute and the Rules of Procedure. The Council would be grateful if the Court of Justice would as soon as possible submit formal proposals for the introduction of an emergency preliminary ruling procedure. In the process of consideration and approval of those proposals, the Council will have the opportunity to form its opinion on the details of the emergency preliminary ruling procedure.

(Complimentary close).

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