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REPORT

on the draft Council decision amending Article 23 of the Statute of the Court of Justice to insert the amendments adopted by Council Decision 2002/653/EC of 12 July 2002 to allow participation by non-Member States in preliminary-ruling proceedings
(6282/2003 – C5-0056/2003 – 2003/0804(CNS))

Committee on Legal Affairs and the Internal Market

Rapporteur: José María Gil-Robles Gil-Delgado

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 21 February 2003 the Council consulted Parliament, pursuant to Article 245(2) of the EC Treaty and Article 160(2) of the EAEC Treaty, on the draft Council decision amending Article 23 of the Statute of the Court of Justice to insert the amendments adopted by Council Decision 2002/653/EC of 12 July 2002 to allow participation by non-Member States in preliminary-ruling proceedings (6282/2003 – 2003/0804(CNS)).

At the sitting of 13 March 2003 the President of Parliament announced that he had referred the draft decision to the Committee on Legal Affairs and the Internal Market as the committee responsible and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Constitutional Affairs for their opinions (C5-0056/2003).

The Committee on Legal Affairs and the Internal Market appointed José María Gil-Robles Gil-Delgado rapporteur at its meeting of 18 March 2003.

The committee considered the draft Council decision and draft report at its meetings of 22 April and 29 April 2003.

At the latter meeting it adopted the draft legislative resolution by 22 votes to 0, with 1 abstention.

The following were present for the vote: Giuseppe Gargani, chairman; Bill Miller, vice-chairman; José María Gil-Robles Gil-Delgado, rapporteur; Luis Berenguer Fuster (for Carlos Candal), Michel J.M. Dary, Bert Doorn, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, Malcolm Harbour, Carlos Lage (for François Zimeray pursuant to Rule 153(2)), Kurt Lechner, Klaus-Heiner Lehne, Toine Manders, Manuel Medina Ortega, Marcelino Oreja Arburúa (for Paolo Bartolozzi), Guido Sacconi (for Maria Berger pursuant to Rule 153(2)), Anne-Marie Schaffner, Marianne L.P. Thyssen, Rainer Wieland, Joachim Wuermeling and Stefano Zappalà.

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Constitutional Affairs decided on 20 March 2003 not to deliver an opinion.

The report was tabled on 30 April 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision amending Article 23 of the Statute of the Court of Justice to insert the amendments adopted by Council Decision 2002/653/EC of 12 July 2002 to allow participation by non-Member States in preliminary-ruling proceedings (6282/2003 – C5-0056/2003 – 2003/0804(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the draft Council decision (6282/2003)¹,
 - having regard to Article 245(2) of the EC Treaty and Article 160(2) of the EAEC Treaty, pursuant to which the Council consulted Parliament (C5-0056/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the Internal Market (A5-0148/2003),
1. Approves the draft Council decision;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to amend the draft decision substantially;
 4. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

The proposed amendment of Article 23 of the Protocol on Statute of the Court of Justice is intended to incorporate into Article 23 of the Statute of the Court of Justice the amendment introduced by Council Decision 2002/653/EC of 12 July 2002 to Article 20 of the EC Statute of the Court, now repealed.

The Committee on Legal Affairs and the Internal Market previously supported the amendment in the report by Mr Gargani on the amendment of Article 20 (A5-0149/2002) adopted by Parliament on 14 May 2002.

Following the entry into force of the Treaty of Nice, the Protocol on the Statute of the Court of Justice of the European Communities has been repealed and replaced by the Protocol on the Statute of the Court of Justice.

Article 23 of the new Statute reproduces Article 20 of the former Statute. When the Treaty of Nice was signed on 26 February 2001 it was not possible to include the amendment to Article 20 subsequently introduced by Council Decision 2002/653/EC. Hence the need to do so now, with the Treaty of Nice having entered into force.

Although this amendment should indeed have been introduced after the agreement with Iceland and other non-Member States was signed in 1999, there was opposition to doing so through the rules of procedure and reform was blocked until the entry into force of the Treaty of Nice. At the time it was thought that the Treaty would enter into force before the summer of 2001, but the delay incurred in that process ruled out any further deferment and Article 20 had to be amended in October 2002. For that reason the time has now come to amend the Statute of the Court once more, solely for renumbering purposes.