

Procedure file



Basic information

REG - Parliament's Rules of Procedure	2007/2266(REG)	Procedure completed
EP Rules of Procedure, Rule 121: proceedings before the Court of Justice		
Subject 8.40.01.08 Business of Parliament, procedure, sittings, rules of procedure		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	AFCO Constitutional Affairs		22/11/2007
		PSE BOTOPOULOS Costas	

Key events

13/03/2008	Committee referral announced in Parliament		
16/07/2008	Vote in committee		Summary
24/07/2008	Committee report tabled for plenary	A6-0324/2008	
23/09/2008	Debate in Parliament		
24/09/2008	Results of vote in Parliament		
24/09/2008	Decision by Parliament	T6-0440/2008	Summary
24/09/2008	End of procedure in Parliament		

Technical information

Procedure reference	2007/2266(REG)
Procedure type	REG - Parliament's Rules of Procedure
Procedure subtype	Rules
Legal basis	Rules of Procedure EP 237-p1
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/6/56575

Documentation gateway

Committee draft report		PE402.934	13/05/2008	EP	

Amendments tabled in committee		PE407.986	25/06/2008	EP	
Committee report tabled for plenary, single reading		A6-0324/2008	24/07/2008	EP	
Text adopted by Parliament, single reading		T6-0440/2008	24/09/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)6073	17/10/2008	EC	

EP Rules of Procedure, Rule 121: proceedings before the Court of Justice

The Committee on Constitutional Affairs adopted the report by Costas BOTOPOULOS (PES, EL), proposing an amendment of Rule 121 of Parliament's Rules of Procedure on proceedings before the Court of Justice.

Recall that, by letter dated 26 September 2007, the Chairman of the Committee on Legal Affairs presented a proposal to the Chairman of the Committee on Constitutional Affairs concerning the interpretation of Rule 121 of Parliament's Rules of Procedure. In his letter, Mr Gargani sought clarification from the Committee on Constitutional Affairs as to whether this Rule, and in particular paragraph 3, refers only to actions brought by Parliament before the Court of Justice or whether it can be interpreted so as to also include observations and interventions by Parliament before the Court.

Rule 121 is entitled 'Proceedings before the Court of Justice', while paragraph 3 refers expressly to 'actions' brought before the Court by the President on behalf of Parliament. Hence, Rule 121(3) applies when Parliament initiates judicial proceedings. There are also other types of proceedings brought before the Court of Justice in the course of which Parliament may have an interest to intervene or submit observations in accordance with the provisions of the Statute of the Court. This is notably the case in preliminary proceedings where the validity of a legislative act is being questioned and in particular where this act has been jointly adopted by the Parliament and the Council. According to current practice, in these cases the Committee on Legal Affairs is consulted on the appropriateness of presenting observations before the Court of Justice, while the President of Parliament takes the final decision.

According to the Rapporteur, it appears evident that Rule 121(3) in its present form applies only to 'actions' initiated by Parliament and does not cover 'observations' or 'interventions' in judicial procedures.

For reasons of completeness and legal certainty, the Committee on Constitutional Affairs considers that a new paragraph should be added to Rule 121 in order to incorporate in the Rules of Procedure the established practice of the President to submit observations or intervene before the Court on behalf of Parliament upon a recommendation of the Committee on Legal Affairs. The new paragraph shall also lay down the procedure to be followed when a divergence of views arises between the President and the committee responsible. Where the President intends to depart from the recommendation of the committee responsible, he shall inform the committee accordingly and shall refer the matter to the Conference of Presidents, stating his reasons. Where the Conference of Presidents takes the view that Parliament should, exceptionally, not submit observations or intervene before the Court of Justice where the legal validity of an act of Parliament is being questioned, the matter shall be submitted to plenary without delay.

In cases of urgency, the President may take precautionary action in order to comply with the time limits prescribed by the court concerned. In such cases, the procedure provided for in the new paragraph shall be implemented at the earliest opportunity.

Nevertheless, the committee responsible can decide on appropriate procedural arrangements so as to transmit its recommendation in time. This possibility is clarified by means of an interpretation contained in the amendment adopted by the Committee on Constitutional Affairs.

EP Rules of Procedure, Rule 121: proceedings before the Court of Justice

The European Parliament adopted the report by Costas BOTOPOULOS (PES, EL), proposing an amendment of Rule 121 of Parliament's Rules of Procedure on proceedings before the Court of Justice. A new paragraph 3a has been inserted which states that the President shall submit observations or intervene on behalf of Parliament in court proceedings after consulting the committee responsible. Where the President intends to depart from the recommendation of the committee responsible, he shall inform the committee accordingly and shall refer the matter to the Conference of Presidents, stating his reasons. Where the Conference of Presidents takes the view that Parliament should, exceptionally, not submit observations or intervene before the Court of Justice where the legal validity of an act of Parliament is being questioned, the matter shall be submitted to plenary without delay.

In cases of urgency, the President may take precautionary action in order to comply with the time limits prescribed by the court concerned. In such cases, the procedure provided for in this paragraph shall be implemented at the earliest opportunity.

Interpretation: Nothing in the Rules prevents the committee responsible from deciding on appropriate procedural arrangements for the timely transmission of its recommendation in cases of urgency.