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LIMITE

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COUR 14
INST 79**

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Draft Amendments to the Rules of Procedure of the Court of Justice -
Approval by the Council

1. By letter dated 18 January 2019 and received by the Council on 21 January 2019, the President of the Court of Justice of the European Union transmitted draft amendments of the Rules of Procedure of the Court of Justice for approval by the Council in accordance with the sixth paragraph of Article 253 TFEU (document 5700/19). The purpose of these draft amendments is to set out detailed rules for the implementation of the mechanism whereby the Court determines whether an appeal should be allowed to proceed, which will be provided for by the new Article 58a of the amended Protocol on the Statute of the Court of Justice of the European Union, which is currently in the process of being adopted (see document 7601/19 - *reference to I/A item note*].
2. The Working Party on the Court of Justice examined the said draft amendments at its meeting on 8 February 2019.
3. Following this meeting, the Court of Justice submitted a revised draft of the amendments to its Rules of Procedure (document 6451/19 of 14 February 2019).

4. Following further written observations by some delegations on the revised draft, the Court of Justice submitted on 1 March 2019 its response to these observations together with new revised draft taking up some of the suggestions made by delegations. The response of the Court of Justice and the revised draft were sent to delegations on the same day, with a silent procedure until 7 March 2019. No further observations were received by that date.

5. The Permanent Representatives Committee is therefore invited to recommend that the Council approve, as an A-item in one of its next meetings, the draft amendments to the Rules of Procedure in the version of the revised draft submitted on 1 March 2019, as they appear in the Annex to this note¹.

¹ Following the approval by the Council, the Court of Justice will adopt the amended Rules of Procedure under the sixth paragraph of Article 253 TFEU and have them published in the Official Journal.

AMENDMENTS OF THE RULES OF PROCEDURE OF THE COURT OF JUSTICE

THE COURT OF JUSTICE,

Having regard to the Treaty on the Functioning of the European Union, and in particular the sixth paragraph of Article 253 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a(1) thereof,

Having regard to the Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 63 thereof,

Whereas it is appropriate to set out, in the Rules of Procedure, the detailed rules implementing the procedure whereby the Court first decides whether an appeal should be allowed to proceed referred to in Article 58a of the Protocol on the Statute of the Court of Justice of the European Union, and to determine both the procedure for submission and examination of requests that an appeal be allowed to proceed and the specific conduct of the proceedings following such examination,

With the approval of the Council given on ...,

HAS ADOPTED THE FOLLOWING AMENDMENTS TO ITS RULES OF PROCEDURE:

Article 1

The following chapter is inserted in Title V of the Rules of Procedure of the Court of Justice of 25 September 2012:²

² OJ L 265, 29.9.2012, p. 1, as amended on 18 June 2013 (OJ L 173, 26.6.2013, p. 65) and 19 July 2016 (OJ L 217, 12.8.2016, p. 69).

‘Chapter 1a

PRIOR DETERMINATION AS TO WHETHER APPEALS UNDER ARTICLE 58a OF THE STATUTE SHOULD BE ALLOWED TO PROCEED

Article 170a

Request that the appeal be allowed to proceed

1. In the situations referred to in the first and second paragraphs of Article 58a of the Statute, the appellant shall annex to the appeal a request that the appeal be allowed to proceed, setting out the issue raised by the appeal that is significant with respect to the unity, consistency or development of European Union law and containing all the information necessary to enable the Court of Justice to rule on that request. If there is no such request, the Vice-President of the Court shall declare the appeal inadmissible.
2. The request that the appeal be allowed to proceed shall not exceed seven pages and shall be drawn up taking into account all the formal requirements contained in the Practice Directions to parties concerning cases brought before the Court, adopted on the basis of these Rules.
3. If the request that the appeal be allowed to proceed does not comply with the requirements set out in the preceding paragraph, the Registrar shall prescribe a reasonable time-limit within which the appellant is to put the request in order. If the appellant fails to put the request in order within the time-limit prescribed, the Vice-President of the Court shall decide, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, whether the non-compliance with that formal requirement renders the appeal formally inadmissible.

Article 170b

Decision on the request that the appeal be allowed to proceed

1. The Court of Justice shall rule as soon as possible on the request that the appeal be allowed to proceed.
2. The decision on that request shall be taken, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, by a Chamber specially established for that purpose, presided over by the Vice-President of the Court and including also the Judge-Rapporteur and the President of the Chamber of three Judges to which the Judge-Rapporteur is attached on the date on which the request is made.
3. The decision on the request that the appeal be allowed to proceed shall take the form of a reasoned order.

4. Where the Court of Justice decides that the appeal should be allowed to proceed, wholly or in part, having regard to the criteria set out in the third paragraph of Article 58a of the Statute, the proceedings shall continue in accordance with Articles 171 to 190a of these Rules. The order referred to in the preceding paragraph shall be served, together with the appeal, on the parties to the relevant case before the General Court and shall specify, where the appeal is to be allowed to proceed in part, the pleas in law or parts of the appeal to which the response must relate.

5. The General Court and, if they were not parties to the proceedings before it, the Member States, the European Parliament, the Council and the European Commission shall forthwith be informed by the Registrar of the decision that the appeal should be allowed to proceed.’

Article 2

These amendments of the Rules of Procedure, authentic in the languages referred to in Article 36 of those Rules, shall be published in the *Official Journal of the European Union* and shall enter into force on the first day of the month following that of their publication.

Done at Luxembourg,
