



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 14 February 2012
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion, on behalf of the Union, of the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access

COMMON GUIDELINES

Consultation deadline for Croatia: 16.2.2012

COUNCIL DECISION

of

**on the conclusion, on behalf of the Union, of the European Convention
on the Legal Protection of Services based on, or consisting of, Conditional Access**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114
in conjunction with Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) On 16 July 1999, the Council authorised the Commission to negotiate in the Council of Europe, on behalf of the European Community, a convention on the legal protection of services based on, or consisting of, conditional access.
- (2) The European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access ("the Convention") was adopted by the Council of Europe on 24 January 2001 and entered into force on 1 July 2003.
- (3) The Convention establishes a regulatory framework which is almost identical to that set out in Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access¹.
- (4) By adopting Directive 98/84/EC, the Union has exercised its internal competence in the fields covered by the Convention except as regards Articles 6 and 8 thereof, insofar as Article 8 relates to the measures under Article 6. The Convention should be therefore approved both by the Union and its Member States.

¹ OJ L 320, 28.11.1998, p. 54.

- (5) On 21 December 2011, in accordance with Council Decision 2011/853/EU¹, the Convention was signed on behalf of the Union.
- (6) The conclusion of the Convention would help to extend the application of provisions similar to those in Directive 98/84/EC beyond the borders of the Union and establish a law on services based on conditional access which would be applicable throughout the European continent.
- (7) The Convention should be approved on behalf of the Union,

HAS ADOPTED THIS DECISION:

¹ OJ L 336, 20.12.2011, p. 1.

Article 1

The European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access is hereby approved on behalf of the European Union¹.

Article 2

1. The President of the Council is hereby authorised to designate the person(s) empowered to deposit on behalf of the Union the instrument of approval provided for in Article 12 of the Convention, in order to express the consent of the Union to be bound.
2. The President of the Council is hereby authorised to designate the person(s) empowered to issue the declaration concerning the division of competences between the Union and its Member States set out in the Annex, at the time of the deposit of the instrument of approval.

¹ OJ L 336, 20.12.2011, p. 2.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the Council

The President

ANNEX

Declaration concerning the division of competences between the Union and its Member States

"The European Union has not exercised its competence as regards Articles 6 and 8 of the Convention, insofar as Article 8 relates to the measures under Article 6. Any measures pursuant to Articles 6 and 8 of the Convention, insofar as Article 8 relates to the measures under Article 6, will be implemented by the Member States."
