



## SUMMARIES OF THE COUNCIL OF EUROPE TREATIES

The summaries available hereunder are designed to meet a practical need, that of supplying the public at large with concise descriptions of the Council of Europe treaties. The summaries are necessarily short and can therefore only give a first introduction to the main features of each treaty.

Subject-matter: **AUDIOVISUAL LAW**

**European Agreement concerning Programme Exchanges by means of Television Films** ([ETS No. 27](#)), open for signature, in Paris, on 15 December 1958.

Entry into force: 1 July 1961.

The Agreement aims to facilitate the exchange of television films among States which are Parties to it. It enables television organisations of one Party to authorise their counterparts in other Parties to exploit, and in particular, to screen the films they have made. Such authorisations are only limited where the authors and other persons who have contributed to the making of the film have expressly provided for such limits in the contracts concluded between them and the organisation which made the film.

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**European Agreement on the Protection of Television Broadcasts** ([ETS No. 34](#)), open for signature, in Strasbourg, on 22 June 1960.

Entry into force: 1 July 1961.

The Agreement enables television organisations in Parties to authorise or prohibit, throughout the territory of the Parties to the Agreement, the re-broadcasting, diffusion by wire, audiovisual recording and other means by which their broadcasts are utilised. The Parties can make protected utilisations subject to given reservations, and in particular can withhold completely the protection of wire distribution.

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**European Agreement for the Prevention of Broadcasts transmitted from Stations outside National Territories** ([ETS No. 53](#)), open for signature, in Strasbourg, on 22 January 1965.

Entry into force: 19 October 1967.

The Agreement aims to prevent the establishment of broadcasting stations which are installed or maintained on board ship, aircraft, or any other floating or airborne objects and which, outside national territories, transmit broadcasts intended for reception within the territory of one of the Parties.

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**Protocol to the European Agreement on the Protection of Television Broadcasts** ([ETS No. 54](#)), open for signature, in Strasbourg, on 22 January 1965.

Entry into force: 24 March 1965.

The Protocol extends until 1 January 1975 the date on which no State may remain or become a Party to the Agreement (ETS No. 34) unless it is also a Party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, signed in Rome on 26 October 1961.

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**Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts** ([ETS No. 81](#)), open for signature, in Strasbourg, on 14 January 1974.

Entry into force: 31 December 1974.

The Protocol extends until 1 January 1985 the date on which no State may remain or become a Party to the Agreement (ETS No. 34) unless it is also a Party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, signed in Rome on 26 October 1961.

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**Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts** ([ETS No. 113](#)), open for signature, in Strasbourg, on 21 March 1983.

Entry into force: 1 January 1985.

The Protocol extends until 1 January 1990 the date on which no State may remain or become a Party to the Agreement (ETS No. 34) unless it is also a Party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, signed in Rome on 26 October 1961.

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**Third Additional Protocol to the Protocol to the European Agreement on the Protection of Television Broadcasts** ([ETS No. 131](#)), open for signature, in Strasbourg, on 20 April 1989.

Entry into force: //

The Protocol extends until 1 January 1995 the date on which no State may remain or become a Party to the Agreement (ETS No. 34) unless it is also a Party to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, signed in Rome on 26 October 1961.

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**European Convention on Transfrontier Television** ([ETS No. 132](#)), open for signature, in Strasbourg, on 5 May 1989.

Entry into force: 1 May 1993.

This Convention is the first international treaty creating a legal framework for the free circulation of transfrontier television programmes in Europe, through minimum common rules, in fields such as programming, advertising, sponsorship and the protection of certain individual rights. It entrusts the transmitting States with the task of ensuring that television programme services transmitted comply with its provisions. In return, freedom of reception of programme services is guaranteed as well as the retransmission of the programme services which comply with the minimum rules of the Convention.

The Convention applies to all transfrontier programmes regardless of the technical means of transmission used (satellite, cable, terrestrial transmitters, etc.).

Its main provisions cover:

- freedom of expression, reception, and retransmission;
- right of reply (transfrontier character of this right and other comparable recourse);
- pornography, violence, incitement to racial hatred, etc. (it forbids such acts), and youth protection;
- the screening of European works, for a majority of screen time, where practicable;
- the screening of cinema films (normally not until 2 years after first showing - 1 year in the case of films co-produced by the broadcaster);
- advertising standards (e.g. prohibition on the advertising of tobacco and medicines and medical treatments available only on prescription, restrictions on the advertising of certain products such as alcoholic beverages);
- advertising time (normally not more than 15% of daily transmission time and not more than 20% of any one hour period);
- advertising breaks (for example, twice during a ninety minute feature film, none during a news or current affairs programme lasting less than 30 minutes);
- programme sponsorship rules.

A Standing Committee composed of representatives of each Party is responsible for monitoring the application of this Convention. Proceedings of conciliation and arbitration are also provided for.

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**European Convention on Cinematographic Co-Production** ([ETS No. 147](#)), open for signature, in Strasbourg, on 2 October 1992.

Entry into force: 1 April 1994.

The aims of this Convention are to promote the development of European multilateral cinematographic co-production, to safeguard creation and freedom of expression and defend the cultural diversity of the various European countries.

In order to obtain co-production status, the work must involve at least three co-producers, established in three different Parties to the Convention. The participation of one or more co-producers who are not established in such Parties is possible, provided that their total contribution does not exceed 30% of the total cost of the production. The co-produced work must also meet the definition of a European cinematographic work set forth in Appendix II to the Convention.

Once these conditions have been fulfilled, the Convention assimilates all co-productions, which have been given the prior approval of the competent authorities of the Parties, with national films; i.e. they are entitled to the benefits granted to the latter. The Convention also covers the following: the minimum and maximum proportions of contributions from each co-producer; the right of each co-producer to co-ownership of the original, the picture and the sound; the general balance of investments and compulsory artistic and technical participation; the measures to be taken by the Parties to facilitate the production and export of the cinematographic work and the right of each Party to demand a final version of the cinematographic work in one of the languages of that Party.

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**European Convention relating to questions on Copyright Law and Neighbouring Rights in the Framework of Transfrontier Broadcasting by Satellite** ([ETS No. 153](#)), open for signature, in Strasbourg, on 11 May 1994.

Entry into force: The Convention will enter into force following 7 ratifications, including 5 member States of the Council of Europe.

The Convention intends to safeguard the rights and interests of authors (and other contributors) as regard their works (contributions) broadcasted by satellite. It aims to promote the harmonisation of the law of the member States, and the other States Parties to the European Cultural Convention.

It defines the notion and act of broadcasting, the applicable law, and the field of application.

The Parties undertake to hold multilateral consultations within the Council of Europe to examine the application of this Convention and the advisability of revising it or extending any of its provisions.

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**Protocol amending the European Convention on Transfrontier Television** ([ETS No. 171](#)), open to tacit acceptance, in Strasbourg, on 1 October 1988.

Entry into force: 1 March 2002.

The Convention (ETS No. 132) is aimed at strengthening the free exchange of information and ideas, by encouraging the transfrontier circulation of television programme services on the basis of commonly-agreed basic standards (taste and decency, advertising and sponsorship, broadcasting of a majority proportion of European works, etc.).

The Convention was negotiated in parallel with the European Community's Directive on "Television without Frontiers". Following the substantial revision of the "Television without Frontiers" Directive, it had become necessary, to maintain coherence between the directive and the convention in the interest of legal certainty of both States and transfrontier broadcasters, to re-align the Convention with the directive.

The main areas covered by the amending Protocol are:

- the definition of advertising and the issue of self-promotion,
- tele-shopping,
- programme sponsorship,
- jurisdiction,
- abuse of rights granted by the convention,
- public access to major events,
- the timeframe for the broadcasting of cinematographic works.

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**European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access** ([ETS No. 178](#)), open for signature, in Strasbourg, on 24 January 2001.

Entry into force: 1 July 2003.

The Convention seeks to protect operators and providers of paid radio, tv and on-line services against unlawful reception of such services. It supplements a similar European Union directive by extending protection throughout Europe.

The States Parties to the Convention undertake to make it a criminal offence to manufacture, import, distribute, sell, offer for hire, possess or install decoders or smart cards enabling access to be obtained unlawfully to the above-mentioned services. They will also prohibit promotion, marketing or advertising of illicit devices.

The penalties provided for by the Convention include seizure and confiscation of the devices or material and of any profits or financial gain resulting from the unlawful activity.

The aim of this Convention is to help European providers of audio-visual and on-line services to reduce financial losses sustained as a result of electronic and computer piracy, in the interests of both service operators and the public.

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**European Convention for the Protection of the Audiovisual Heritage** ([ETS No. 183](#)), open for signature, in Strasbourg, on 8 November 2001.

Entry into force: 1 January 2008.

The promotion of European cinema has always been an important concern of the cultural cooperation of the Council of Europe. It follows on from the European Convention on Cinema Coproduction of 2 October 1982 (ETS No. 147) and other resolutions concerning the same subject.

This Convention and its Protocol are centered around the principle of compulsory legal deposit of all moving-image material produced or coproduced and made available to the public in each signatory State. Legal deposit involves a requirement not just to deposit a reference copy with an officially designated archive but also to look after the material and do the necessary conservation work. In addition, the material must be available for consultation for academic or research purposes, subject to the international or national rules on copyright.

The Convention and its Protocol are the first binding international instruments in this field. They introduce systematic storage of audiovisual works in film archives, where the latest conservation and restoration technology can be used for long-term prevention of deterioration.

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**Protocol to the European Convention for the Protection of the Audiovisual Heritage, on the Protection of Television Productions** ([ETS No. 184](#)), open for signature, in Strasbourg, on 8 November 2001.

Entry into force: 1 April 2014.

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