



## **Convention on Information and Legal Co-operation concerning "Information Society Services"** \*

Moscow, 4.X.2001

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### **Preamble**

The Parties to this Convention, signatories hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Noting the continued development of information and communication technology and the numerous national initiatives and their impact at a European and international level;

Recognising the cross-border nature of interactive services that are diffused on-line by new means of electronic communication and their growing importance in facilitating the economic, social and cultural progress of the Council of Europe member States;

Recalling the system established by the legislation of the European Community for the exchange of the texts of draft domestic regulations concerning "Information Society Services";

Noting the need for all Council of Europe member States to be kept regularly informed of legislative developments on "Information Society Services" at a Pan-European level and, where necessary, to have the possibility to discuss and exchange information and ideas regarding these developments;

Agreeing on the desirability to provide a legal framework to enable member States of the Council of Europe to exchange, where practicable by electronic means, texts of draft domestic regulations aimed specifically at "Information Society Services",

Have agreed as follows:

### **Article 1 – Object and scope of application**

- 1 In accordance with the provisions of this Convention, the Parties shall exchange texts, where practicable by electronic means, of draft domestic regulations aimed specifically at "Information Society Services" and shall co-operate in the functioning of the information and legal co-operation system set up under the Convention.
- 2 This Convention shall not apply:

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(\*) The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community entered into force on 1 December 2009. As a consequence, as from that date, any reference to the European Economic Community shall be read as the European Union.

- a to domestic regulations which are exempted from prior notification by virtue of European Community legislation (hereinafter referred to as "Community law"), or
  - b where a notification has to be made to comply with other international agreements.
- 3 This Convention shall not apply:
- a to radio broadcasting services;
  - b to television programme services covered by the European Convention on Transfrontier Television, opened for signature in Strasbourg on 5 May 1989 (ETS No. 132), as amended by the Protocol of 1 October 1998 (ETS No. 171);
  - c to domestic regulations relating to matters which are covered by European Community legislation or international agreements in the fields of telecommunications services and financial services.

## **Article 2 – Definitions**

For the purposes of this Convention:

- a "Information Society Services" means any service, normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services;
- b "domestic regulations" means legal texts concerning the compliance with requirements of a general nature relating to the taking up and pursuit of service activities within the meaning of paragraph a of this article, in particular provisions concerning the service provider, the services and the recipient of services, excluding any rules which are not specifically aimed at the Information Society Services.

## **Article 3 – Receiving and transmitting authorities**

Each Party shall designate an authority that is in charge of transmitting and receiving, where practicable by electronic means, draft domestic regulations aimed specifically at "Information Society Services" as well as any other documents pertaining to the functioning of the present Convention.

## **Article 4 – Procedure**

- 1 Each Party shall transmit, where practicable by electronic means, to the Secretary General of the Council of Europe the texts of draft domestic regulations which are aimed specifically at "Information Society Services" and which are at a stage of preparation in which it is still possible for them to be substantially amended, as well as a short summary of these texts in English or French. The Parties shall communicate the draft again under the above conditions if they make changes to the draft that have the effect of significantly altering its scope, shortening the timetable originally envisaged for implementation, adding specifications or requirements, or making the latter more restrictive.
- 2 Upon receipt of the texts of the draft domestic regulations and summaries under paragraph 1 above or paragraph 6 below, the Secretary General of the Council of Europe shall transmit them, where practicable by electronic means, to the authority of each Party.
- 3 Upon receipt of the texts and summaries under paragraph 2 above, each Party may transmit, where practicable by electronic means, observations on the texts of the draft domestic regulations in English or French to the Secretary General of the Council of Europe and to the Party concerned.

- 4 A Party receiving the observations under paragraph 3 above shall endeavour to take them into account as far as possible when preparing new domestic regulations.
- 5 Paragraphs 1 to 4 above shall not apply:
  - a in cases where, for urgent reasons, occasioned by serious and unforeseeable circumstances relating to the protection of public health or safety, the protection of animals or the preservation of plants, and public policy, notably the protection of minors, a Party is obliged to prepare technical regulations in a very short space of time in order to enact and introduce them immediately without any consultations being possible;
  - b in cases where for urgent reasons occasioned by serious circumstances relating to the protection of the security and the integrity of the financial system, notably the protection of depositors, investors and insured persons, a Party is obliged to enact and to implement rules on financial services immediately;

in the cases mentioned in sub-paragraphs a and b, the Party shall give reasons to the Secretary General of the Council of Europe for the urgency of the measures in question;

  - c to domestic regulations enacted by or for regulated markets or by or for other markets or bodies carrying out clearing or settlement functions for those markets.
- 6 Each Party which finalises any domestic regulations aimed specifically at "Information Society Services" shall transmit the definitive text to the Secretary General of the Council of Europe without delay and where practicable by electronic means.
- 7 Upon receipt of the texts of the adopted domestic regulations under paragraph 6 above, the Secretary General of the Council of Europe shall make them available, where practicable by electronic means, and shall keep this information in a single database within the Council of Europe.

#### **Article 5 – Declarations**

The authorities referred to in Article 3 shall be designated by means of a declaration addressed to the Secretary General of the Council of Europe when the State concerned or the European Community becomes a Party to the present Convention in accordance with the provisions of Articles 8 and 9. Any change shall likewise be declared to the Secretary General of the Council of Europe.

#### **Article 6 – Relationship to other instruments and agreements**

- 1 This Convention shall not affect any international instrument which is binding on the Parties and which contains provisions on matters governed by this Convention.
- 2 The European Community shall equally fulfil the obligation to notify the texts transmitted to it by its member States in pursuance of the provisions of paragraph 1 of Article 4, and shall transmit to them the observations received by the other Parties, in pursuance of the provisions of paragraph 3 of Article 4.

#### **Article 7 – Amendments to Article 1 of the Convention concerning excluded matters**

- 1 Any amendment to Article 1, paragraph 3 of this Convention proposed by a Party shall be communicated to the Secretary General of the Council of Europe who shall forward the communication to the European Committee on Legal Co-operation (CDCJ).

- 2 The proposed amendment shall be examined by the Parties, which may adopt it by a two-thirds majority of the votes cast. The text adopted shall be forwarded to the Parties. The European Community shall have the same number of votes as the number of its member States.
- 3 On the first day of the month following the expiration of a period of four months after its adoption by the Parties, unless the Parties have notified objections by one-third of the votes cast, any amendment shall enter into force for those Parties which have not notified objection.
- 4 A Party which has notified an objection in pursuance of the provisions of paragraph 3 of Article 7 may subsequently withdraw it in whole or in part. Such withdrawal shall be made by means of a notification addressed to the Secretary General of the Council of Europe and shall become effective as from the date of its receipt.

#### **Article 8 – Signature and entry into force**

- 1 This Convention shall be open for signature by the member States of the Council of Europe, the non-member States which have participated in its elaboration and the European Community. Such States and the European Community may express their consent to be bound by:
  - a signature without reservation as to ratification, acceptance or approval, or
  - b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five signatories, of which at least one is not a member State of the European Economic Area, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
- 4 In respect of any signatory which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the expression of their consent to be bound by the Convention in accordance with the provisions of paragraph 2.

#### **Article 9 – Accession to the Convention**

- 1 After the entry into force of the present Convention, the Committee of Ministers of the Council of Europe, after consulting the Parties to the Convention, may invite any non-member State of the Council which has not participated in its elaboration to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Parties entitled to sit on the Committee.
- 2 In respect of any State acceding to it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### **Article 10 – Reservations**

No reservation may be made in respect of any provision of this Convention.

### **Article 11 – Territorial application**

- 1 Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- 2 Any Party may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
- 3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of the Council of Europe of the notification.

### **Article 12 – Denunciation**

- 1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 13 – Notification**

The Secretary General of the Council of Europe shall notify the member States of the Council and any other signatories and Parties to this Convention of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any declaration made in pursuance of the provisions of Article 5;
- d any notification received in pursuance of the provisions of Article 7;
- e any date of entry into force of this Convention, in accordance with Articles 8, 9 and 11;
- f any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 11;
- g any notification received in pursuance of the provision of paragraph 1 of Article 12;
- h any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Moscow, this 4th day of October 2001, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Community, as well as to any State invited to accede to it.