



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 29 March 2012

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INFORMATION NOTE

from : Legal Service

to : Permanent Representatives Committee (part I)

Subject : **Case before the Court of Justice**

- Case C-114/12 (European Commission v Council of the European Union)

1. By application of 1 March 2012, which was notified to the General Secretariat of the Council by the Registrar of the Court of Justice of the European Union on 7 March 2012, the European Commission filed an action for annulment of a Decision of the Council and of the Representatives of Governments of the Member States meeting within the Council on the participation of the European Union and its Member States in negotiations for a Convention of the Council of Europe on the protection of the rights of broadcasting organisations ("the contested Act").
2. The contested act is a single decision of a hybrid nature adopted by the Council and the representatives of the Member States, meeting within the Council.
3. The Applicant raises four pleas in law:
 - infringement of Articles 2(2) and 3(2) TFEU in so far as the Council has considered that the subject matter is one of shared competence and has authorised Member States or an institution other than the Commission to negotiate the agreement, in a matter of exclusive competence;

- breach of the procedure and the conditions to authorise negotiations of international agreements by the Union: the contested act should have been adopted only by the Council and not the Council acting jointly with Member States (Article 13(2) TEU in conjunction with Article 218(2) TFEU);
 - violation of the voting rules in the Council : the Council should have acted by qualified majority (Article 16 (3) TEU and 218(5) TFEU) and not by unanimity;
 - breach of the objectives set out in the Treaties and the principle of sincere cooperation (Article 13(2) and Article 218 (2) TFEU): by acting jointly with the Member States, the Council undermined the standing of the Union and weakened the institutional framework of the Union.
4. According to Article 40(1) of the Rules of Procedure of the Court of Justice, the Council may lodge a statement of defence within one month after service of the Application.
 5. The Director General of the Legal Service of the Council has appointed Mr. Hubert LEGAL, the Legal Counsel, Director-General of the Legal Service of the Council, Mr. Jan-Peter HIX, Mr. Fernando FLORINDO GIJÓN and Mrs Maria BALTA, legal advisers in the said service, as the Council's agents in this case.
 6. The Member States may request to intervene in the case, pursuant to Article 93 of the Rules of Procedure of the Court of Justice, in conjunction with Article 40 of the Statute of the Court of Justice.
