**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 November 2013

**7234/3/13
REV 3 EXT 1**

**JAI 194
DATAPROTECT 30
MI 184
FREMP 29
RELEX 199**

PARTIAL DECLASSIFICATION

of document:	7234/3/13 REV 3 RESTREINT UE/EU RESTRICTED
dated:	31 May 2013
new status:	Public
Subject:	Draft Council Decision authorising the European Commission to participate on behalf of the European Union in the negotiations on the modernisation of Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data (EST 108) and the conditions and modalities of accession of the European Union to the modernised Convention

Delegations will find attached the partially declassified version of the above-mentioned document.

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COUNCIL OF
THE EUROPEAN UNION

Brussels, 31 May 2013

7234/3/13
REV 3 EXT 1 (21.11.2013)

JAI 194
DATAPROTECT 30
MI 184
FREMP 29
RELEX 199

NOTE

from :	Presidency
to :	Delegations
No. prev. doc. :	6176/13 RESTREINT UE/EU RESTRICTED JAI 84 DATAPROTECT 11 MI 99 FREMP 9 RELEX 112
	16466/12 RESTREINT UE/EU RESTRICTED JAI 815 DATAPROTECT 129 MI 750 FREMP 139 RELEX 1062
Subject :	Draft Council Decision authorising the European Commission to participate on behalf of the European Union in the negotiations on the modernisation of Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data (EST 108) and the conditions and modalities of accession of the European Union to the modernised Convention

In the light of the discussion at the JHA Counsellors meeting on 22 April 2013 and the comments received following this meeting, the Presidency has revised the text of the above draft Council decision.

The revised draft text is set out in the annex.

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DRAFT COUNCIL DECISION

authorising the European Commission to participate on behalf of the European Union in the negotiations on the modernisation of Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data (EST 108) and the conditions and modalities of accession of the European Union to the modernised Convention

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 and 218 (3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

The Parties, including the Member States of the European Union, to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data are currently negotiating the modernisation of the said Convention,

The Union should participate in the negotiations on the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data,

The Member States should continue to participate in the negotiations on the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data insofar as their competence is concerned (for example defence and national security).

Therefore the respective positions of the Union and the Member States should be coordinated.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, the modernisation of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (hereafter called "Convention 108") as well as the conditions and modalities of the accession of the European Union to the modernised Convention 108.

Article 2

The Commission shall conduct those negotiations on behalf of the Union, as regards matters which, in accordance with the Treaties, fall within the competence of the Union (…).

Article 3

The Commission shall conduct the negotiations on the basis of the negotiating directives set out in the Annex.

Article 4

The Commission shall conduct the negotiations following consultation and coordination of the Union's position before each round of negotiations with the Working Party on Information Exchange and Data Protection (DAPIX) of the Council as the special committee appointed by the Council, in accordance with Article 218(4) of the Treaty on the Functioning of the European Union. To that effect, the Commission shall report after each round to the special committee, where possible in writing, on the progress of negotiations.

Article *5*

The Council may at any time review the content of the negotiating directives set out in the Annex.

Article 6

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

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Directives for the negotiation of the Modernisation of Europe Convention for the protection of individuals with regard to automatic processing of personal data (EST 108) and of the conditions and modalities of accession of the European Union to the modernised Convention

SECTION I: REVISION OF CONVENTION 108

1.   The modernised Convention 108 shall ensure a high level of protection of fundamental rights and freedoms with respect to the processing of personal data.

2.   The Convention 108 shall remain comprehensive and wide in scope and general in nature.

3.   The essential nature of the system of Convention 108, including its rules on exceptions and restrictions, shall not be altered. The rules shall when necessary, be updated while maintaining the general nature and the technological neutrality of the Convention. **NOT DECLASSIFIED**

4.   The consistency of Convention 108 with the EU data protection acquis shall be ensured taking duly into account the ongoing reform of the data-protection legislation.(…). The Commission shall conduct negotiations in accordance with relevant Union legislation and coordinated positions of the Union established specifically for the purpose of those negotiations.

5.   **NOT DECLASSIFIED**

SECTION II: ACCESSION BY THE EU TO THE MODERNISED CONVENTION 108

NOT DECLASSIFIED

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