

# Committee of Ministers Recognises the Right of Journalists Not to Disclose their Sources of Information

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*Rüdiger Dossow  
Council of Europe, Directorate of Human Rights*

On 8 March 2000, the Committee of Ministers of the Council of Europe adopted Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information. The Recommendation follows the reasoning of the judgment of the European Court of Human Rights in the case *Goodwin v. the United Kingdom* (27 March 1996), in which the Court decided that Article 10 of the European Convention on Human Rights protects journalistic sources as one of the basic conditions for press freedom, and that "without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest". Given the importance of the protection of journalists' sources, an intergovernmental committee on media law and human rights had been established under the Steering Committee on the Mass Media to work towards reinforcing and complementing this protection by recommending to member states common legal principles.

Recommendation No. R (2000) 7 enlarges, for instance, the protection beyond the mere identity of a source to factual circumstances, unpublished content and relevant data of journalists and their employers. Also other persons who, by their professional relations with journalists, acquire knowledge of information identifying a source should have the right not to disclose the source. The Committee of Ministers recommended that reasonable alternative measures should have been exhausted, including evidence from other trials available to the court, before the disclosure of a source can be demanded. Furthermore, journalists should be informed of this right before a disclosure is requested, sanctions for not following such a request should only be imposed by judicial authorities and be open to judicial review, and procedural safeguards be introduced against wider publicity or the subsequent use of disclosed information. The latter would especially concern the interception of communication, surveillance and search and seizure actions. Nevertheless, the right of journalists not to disclose their sources is not an absolute right, and Recommendation No. R (2000) 7 underlines this by recommending a careful and open balancing by national authorities of possibly divergent rights and interests, recognising the important public interest in the protection of the confidentiality of sources.

The Recommendation hereby aims at achieving greater legal security for journalists, their sources as well as judicial and police authorities. The principles of Recommendation No. R (2000) 7 will also be a point of reference for the

Committee of Ministers when monitoring the compliance of commitments by member states.

*Recommendation No. R (2000) 7 on the right of journalists not to disclose their sources of information*

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