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The protection of journalists' sources

Reply to Recommendation¹: Recommendation 1950 (2011)
Committee of Ministers

1. The Committee of Ministers has examined with close attention Parliamentary Assembly [Recommendation 1950 \(2011\)](#) on “The protection of journalists’ sources”, which has been brought to the attention of member States’ governments, and forwarded to the Commissioner for Human Rights for information and to the Steering Committee on the Media and New Communication Services (CDMC), the European Committee on Crime Problems (CDPC) and the European Committee on Legal Co-operation (CDCJ), for information and possible comments.

2. The Committee of Ministers shares the Parliamentary Assembly’s concerns in relation to the sensitive question of the protection of journalists’ sources and notes that this is a condition for both the full exercise of journalistic work and the right of the public to be informed on matters of public concern. In this context, the Committee wishes to recall its Declaration of 13 January 2010 on Measures to Promote the Respect of Article 10 of the European Convention on Human Rights, in which it stressed that freedom of expression and information, including freedom of the media, are indispensable for genuine democracy and democratic processes. It would furthermore again underline that when those freedoms are not upheld, accountability is likely to be undermined and the rule of law can also be compromised.²

3. Like the Parliamentary Assembly, the Committee of Ministers recalls its Recommendation Rec(2000)7 on the right of journalists not to disclose their sources of information, in which it recommends to the governments of member States, *inter alia*, to implement in their domestic law and practice the principles appended to the Recommendation. Principle 1 of the Recommendation states that “Domestic law and practice in member States should provide for explicit and clear protection of the right of journalists not to disclose information identifying a source in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms”. The Committee of Ministers calls on those member States that do not yet have legislation in place to consider this with priority. It notes that the Council of Europe can assist member States in analysing and improving their legislation in this field, as proposed by the Assembly.

4. With reference to the issue raised in paragraph 15 of the recommendation, the Committee of Ministers would underline that the definition of media is changing. In certain circumstances, the protection of sources may need to be extended to new media actors. It notes that some member States have already adopted a broader approach along the lines of Recommendation Rec(2000)7 or even extended the protection of sources to non-professional media actors.

5. Recalling the limits to the right of non-disclosure contained in Principle 3 of its Recommendation, the Committee shares the opinion that the disclosure of information identifying a source should be limited to exceptional circumstances where vital public or individual interests are at stake. Seeking disclosure of sources should not be seen as an alternative to poor investigation by law enforcement agencies and authorities. In the light of the interests involved, the importance of having a judge or other independent impartial organ request the disclosure of a source should be stressed.

1. Adopted at the 1131st meeting of the Ministers’ Deputies (18 January 2012).

2. See its reply to Parliamentary Assembly [Recommendation 1897 \(2010\)](#) on “Respect for media freedom”.



6. Considering also that the protection of “whistleblowers” is closely linked to the right of every person to disclose to the media, confidentially or otherwise, information about unlawful acts and other wrongdoings which may be of public concern, such as corruption and mismanagement, the Committee of Ministers agrees that their protection must be secured.

7. Finally, the Committee of Ministers will consider the Assembly’s proposals for guidelines contained in paragraphs 17.3 and 17.4 in the context of the elaboration of the terms of reference for the Steering Committee that will replace the CDMC.