

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (83) 3

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

CONCERNING THE PROTECTION

OF USERS OF COMPUTERISED LEGAL INFORMATION SERVICES

*(Adopted by the Committee of Ministers on 22 February 1983
at the 356th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its members ;

Considering that the growing complexity of law and of other legal information from national, European and international sources makes it increasingly difficult for citizens to orient themselves in the legal system and exercise their rights and fulfil their duties ;

Considering that, to the benefit of the rule of law, all means for spreading legal information should be developed as fully as possible and on terms which take into consideration the principle of equality before the law ;

Considering that automated means of storing and retrieving legal information have already been introduced in a great number of member states ;

Appreciating the novel and innovative nature of many computerised legal information services ;

Noting also that the growing dependence on such means has created a new situation with regard to the responsibilities of the providers of legal information and to the protection of those seeking to obtain such information ;

Considering it an important task to formulate general principles for computerised legal information services, not least since such principles are essential to facilitate access to legal information at both national and international levels ;

Bearing in mind the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data ;

Considering that the relationship between a computerised legal information service and its users should be organised in such a way that the protection of the users is taken into account,

Recommends the governments of member states :

1. to take appropriate steps in order to implement the "General principles concerning the protection of users of computerised legal information services" reproduced in Part I of the appendix to this recommendation and, where applicable, take them into consideration when preparing new legislation in the field covered ;
2. to take appropriate measures to ensure that the "Guidelines for the relationship between a computerised legal information service and a user of such a service", reproduced in Part II of the appendix to this recommendation, are brought to the attention of computerised legal information services and their users ;
3. to draw the attention of the competent public and private institutions and interested parties to the measures taken in compliance with paragraphs 1 and 2 above.

PART I

**General principles concerning the protection
of users of computerised legal information services**

1. Definitions

A "computerised legal information service" means a service (institution or conglomerate of separate institutions and regardless of their form or organisation) providing information by automated means on :

- legislation,
- court decisions,
- legal literature.

A service is presumed "operational" if it publicly announces itself as such or if it charges a fee.

The "user" of a computerised legal information service is a person or institution who seeks directly the service mentioned above, whether or not acting on behalf of a third party.

2. Access of computerised legal information services to legal source texts

States should facilitate access of computerised legal information services to legal source texts (legislation, court decisions, administrative texts).

The services should, wherever possible, be permitted to use materials existing in machine-readable form.

The preceding paragraph should not apply if the state itself supplies any available legal source data directly to the users.

3. Access of users to computerised legal information services

States should endeavour to encourage access of persons and institutions to the information held by operational computerised legal information services. If access is restricted to a specific category, the service should clearly indicate who may have access to it ; it should not deny access to a person or institution belonging to the category thus indicated. In any case, the conditions of access should be such as to avoid unfair discrimination.

Services should endeavour to give access to users from other states and international organisations.

4. Participation of users

Computerised legal information services should be adapted to the needs of the users.

User participation should be secured, for instance through representation in appropriate decision-making or consultative bodies.

5. Coverage

The selection of documents, if applicable within a chosen area, should be sufficiently representative ; in any case, it should be carried out according to clearly defined standards.

States should endeavour, whenever necessary, to ensure or to encourage the creation of data bases to cover types of information, fields of law and jurisdictions not otherwise provided for.

6. Co-operation among services

Legal information services should endeavour to comply with common technical standards agreed upon within the competent national and international organisations in order to facilitate co-operation, exchanges of information and the interrogation of data banks via networks.

7. Relationship between the service and the user

The relationship between the legal information service and the user should be regulated by rules provided in a contract, in standard contract clauses or in regulations. These rules should be made available in written form to a user at his request. They might be inspired by the guidelines set out below in Part II of the appendix.

PART II

Guidelines for the relationship between a computerised legal information service and a user of such a service

Every service should present to its users, on request, a document indicating the conditions which apply to the services it offers. The following items should be included in this document :

1. *Nature of the data base :*

- a. the fields of law covered ;
- b. the type of data ;
- c. the period of time covered ;
- d. the updating system ;
- e. the criteria for the choice of data ;
- f. the form in which the data are available ;
- g. the sources of the data.

2. *Nature of the service offered, such as :*

- a. the possibility for the user to search the data base directly ;
- b. the necessity or possibility of searching the data base with a member of the staff of the service acting as an intermediary ;
- c. selective dissemination of information (permanent questions by the user on a particular subject) ;
- d. whether legal texts are supplied in a printed form or any other form, for example microfilm or microfiche ;
- e. the facilities for training which the service offers to the user, or the organisation which will undertake training on behalf of the service and the cost of the training.

3. *Description of the system and the methods used for retrieval :*

References to manuals which describe how to use the system, the methods to be used for retrieval and their implications for the retrieval results ; methods of updating this information following the development of the system.

4. *Data-processing equipment available to the user and services to be rendered :*

- a. the peripheral equipment and the communication procedures which can be used to search the data base. If the service provides the equipment, it should also specify what technical support the user is entitled to (in particular, maintenance services) and what is the expected response time for such support ;
- b. obligations, if any, of the service for locating failures of the system, including the communication line.

5. *Availability of the services :*

- a. the periods of the day during which the data base can be searched ;
- b. the expected response time, taking into account the most important circumstances which might influence it.

6. *Costs :*

That is clear and understandable information on the factors determining the cost of using the system, and the guarantee that the user will be enabled to know the costs of each search which has been made.

7. *Use of output :*

It should be clearly stated what the position is as to copyright and other intellectual property rights and what use can be made of the information supplied.

8. *Guarantees for the user :*

- a. a guarantee that the service will not give to any person, unauthorised by the user, information regarding queries formulated by the user, subject to the legitimate use the service might make of the queries for its internal purposes ;
- b. a guarantee that the password permitting access to the system is granted exclusively to the user, and that the service will not make improper use of it, either by disclosing it to an unauthorised person or by utilising it without the permission of the user ;
- c. a guarantee that, if the user has created a data base for his own exclusive use, no information about the data base or access to it will be given to a person not authorised by the user.

9. *Updating of system documentation :*

Reference to measures which allow the user to know at all times the actual state as well as the expected changes of the items specified in Items 1 to 7.

10. *Termination of the relationship :*

The appropriate procedures and time-limits that the service and the user must respect if they want to terminate the relationship ; details as to how the user can terminate the relationship if considerable changes have been made concerning the data base or the technical services, or if the cost of services is increased.