

Client Alert

ISP-Liability & Media Law

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In the Netherlands, the Council of Ministers decided to legally define the right of journalists to protect their sources.

Introduction

Although Dutch case law already recognized the right of journalists to protect their sources, the Dutch Council of Ministers decided to legally define this right. With this legal definition, the Council of Ministers aims at more clarity and certainty for journalists.

Who is concerned?

Only those persons that are professionally active in journalistic activities will benefit from the right to protect their sources. As such, the enactment would be more strict than the protection granted by case law. Before, the criterion to be professionally active was of no importance. It was sufficient to address yourself to a large audience and to act in the public interest to be granted the right to protect your sources.

Scope of the protection

The journalist will only obtain the right to protect his source if the data destined for disclosure to the public is communicated to the journalist in pursuance of his profession. Moreover, the right for the journalist to protect his source can also be limited for reasons of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, etc.

Entry into force

The Council of Ministers agreed to have the State Council advice on the proposed act before introducing it with the Parliament for voting. Thus, there are still some steps to be taken before the right to protect sources is legally defined. Until that moment, it will be up to case law to judge whether or not journalists may protect their sources.

References: Press release from the Dutch government of 4 December 2009

Links:http://www.regering.nl/Actueel/Persberichten_ministerraad/2009/december/04/Kabinet_wettelijke_regeling_bronbescherming_journalisten.

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