

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (89) 7

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING PRINCIPLES ON THE DISTRIBUTION OF VIDEOGRAMS HAVING A VIOLENT, BRUTAL OR PORNOGRAPHIC CONTENT

*(Adopted by the Committee of Ministers on 27 April 1989
at the 425th 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 the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Articles 8 and 10 thereof;

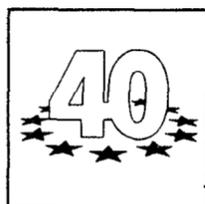
Recalling its commitment to freedom of expression and the free circulation of information and ideas, to which it gave expression, in particular, in its declaration of 29 April 1982;

Recalling Resolution No. 5 on the distribution of video-cassettes portraying violence and brutality adopted by the 4th Conference of European Ministers responsible for Cultural Affairs (Berlin, 23-25 May 1984);

Bearing in mind Recommendation 963 (1983) of the Parliamentary Assembly on cultural and educational means of reducing violence;

Recalling Recommendation 996 (1984) of the Parliamentary Assembly on Council of Europe work relating to the media, which stresses the need for action concerning in particular the quality of programme content and measures to regulate the distribution of video-cassettes portraying violence and brutality likely to have a pernicious influence on children and adolescents;

Having regard also to the final text of the 1st Conference of European Ministers responsible for Youth (Strasbourg, 17-19 December 1985), Recommendation 1067 (1987) of the Parliamentary Assembly on the cultural dimension of broadcasting in Europe and the conclusions and resolutions of the 16th Conference of European Ministers of Justice (Lisbon, 21-22 June 1988);



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Being aware of the importance of strengthening action taken in respect of the distribution of videograms having a violent, brutal or pornographic content, as well as those which encourage drug abuse, in particular with a view to protecting minors,

1. Recommends that the governments of the member states :
 - a. take concrete measures to implement the principles set out below ;
 - b. ensure, by all appropriate means, that these principles are known by the persons and bodies concerned ; and
 - c. proceed to a periodical evaluation of the effective application of these principles in their internal legal orders ;
2. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of those states party to the European Cultural Convention which are not members of the Council of Europe.

Principles

Scope

The following principles are designed to assist member states in strengthening their action against videograms having a violent, brutal or pornographic content — as well as those which encourage drug abuse — in particular for the purpose of protecting minors. They should be envisaged as a complement to other existing Council of Europe legal instruments.

These principles concern in particular the distribution of videograms.

1. Systems for the distribution of videograms

The member states should :

- encourage the creation of systems of self-regulation, or
- create classification and control systems for videograms through the professional sectors concerned or the public authorities, or
- institute systems which combine self-regulatory with classification and control systems, or any other systems compatible with national legislation.

In all cases, member states remain free to make use of criminal law and dissuasive financial and fiscal measures.

2. Self-regulatory systems

The member states should encourage, by appropriate means, the distributors of videograms to draw up codes of professional conduct and voluntary systems of regulation, which could comprise notably classification and control systems inspired by principles 3 and 4 hereafter.

3. Classification and control systems

3.1. The member states should encourage the creation of systems of classification and control of videograms by the professional sectors concerned in the framework of self-regulatory systems, or through the public authorities. Such systems may be implemented either prior to, or following the distribution of videograms.

3.2. In order to promote the use of classification and control systems by public authorities, the introduction of a system of legal deposits should be considered by national legislators.

3.3. The classification and control systems shall involve either the issue of a free distribution certificate, a limited distribution permit specifying the videogram's distribution conditions, or possibly an outright prohibition.

3.4. Under the classification and control system, the age of the public to whom the videogram can be distributed shall be specified according to national criteria.

3.5. All classified videograms shall be registered and their material mediums (video-cassettes, videodiscs, etc.) shall display in a clear and permanent fashion the classification of the videograms and

the public for whom they are intended. In the case of material mediums featuring several videograms, the member states shall take measures so that the most restrictive classification be applied.

3.6. When the video classification procedure is separate from that of cinematographic films, the member states shall look for consistency between the two, in so far as possible, but taking account of the differences between the two media.

3.7. Allowance should be made, within the classification and control system, for simplified procedures or exemption of procedures for certain types of programmes, such as material whose purpose is educational, religious or informative. These exemptions should not apply to programmes having an unduly pornographic or violent content.

3.8. The control of the distribution of videograms shall apply to the distribution of both nationally produced videograms and imported ones.

3.9. The establishment of a system designating which officers of a company should be liable for offences under the videogram classification and control system could be considered by the member states.

4. *Limitations on distribution*

4.1. Permits for limited distribution referred to in paragraph 3.3 above may include in particular:

- a ban on commercial supplies or offers to supply to minors;
- a ban on commercial supplies or offers to supply except at sales or rental outlets set aside for adults only;
- a ban on advertising;
- a ban on mail order sales.

4.2. The classification of each videogram should be specified on the packaging of the material medium and in video catalogues, advertisements, etc.

5. *Measures against offences to the classification and control systems*

5.1. The member states which have classification and control systems shall take appropriate measures to punish any infringement of these systems by dissuasive sanctions, for instance heavy fines, imprisonment, confiscation of the videograms and of the receipts gained from the unlawful distribution.

5.2. In member states where licensing exists, the authorities could envisage the suspension or withdrawal of the licence.

6. *Application of criminal law*

In conjunction with, parallel to, or independently from the application of classification and control systems, or as an alternative to such systems, the member states should consider if the application of their criminal law concerning videograms is effective in dealing with the problem of videograms having a violent, brutal or pornographic content, as well as those which encourage drug abuse.

7. *Dissuasive financial and fiscal measures*

The member states should consider the possibility of taking measures of a financial and fiscal nature which discourage the production and distribution of videograms with a violent, brutal or pornographic content, as well as those which encourage drug abuse.