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**STEERING COMMITTEE ON
THE MEDIA AND NEW COMMUNICATION SERVICES
(CDMC)**

**1st meeting of the CDMC
21 to 24 June 2005
Meeting room of the Directorate General of Human Rights**

MEETING REPORT

Items 1 and 2 of the agenda: Opening of the meeting and adoption of the agenda

1. The Steering Committee on the Media and New Communication Services (CDMC)¹ held its 1st meeting on 21 to 24 June 2005 in Strasbourg. The meeting was chaired by Mr Karol JAKUBOWICZ (Poland).

2. The Chairperson opened the meeting and welcomed the participants. The list of participants is set out in Appendix I.

3. The CDMC was informed that Ms Lindsay YOUNGS would be leaving the Media Division on 1 September 2005 to take up a post in the Secretariat of the Social Policy Department. The Steering Committee expressed its appreciation for her contribution to its work over the past years and wished her well in her new post.

4. The Chairperson informed the CDMC that Mr Vladimir SIMON (Romania) had been replaced in his functions by Ms Delia MUCICĂ. As Mr Simon had been a Bureau member, the CDMC would be invited, during the course of its meeting, to elect a new member to the Bureau to complete his term of office of two years, expiring on 31 December 2006 (see item 17.a below).

Having taken note of various new items and changes in the order of business, the CDMC adopted its draft agenda. The agenda, as adopted, is set out in Appendix II and the working documents are referred to in Appendix III.

Items 3 of the agenda: Decisions of the Committee of Ministers of interest to the work of the CDMC

5. The Secretariat informed the CDMC that, on 11 May 2005, the Committee of Ministers took note of the abridged report on the 63rd meeting of the CDMM and the report on the 7th Ministerial Conference on Mass Media Policy (cf. documents CDMM(2005)8 and CDMM(2005)9 rev).

Following the request made by the Ministers who had participated in the Kyiv Ministerial Conference, the Committee of Ministers also redefined the terms of reference of the Steering Committee on the Mass Media (CDMM) and renamed it Steering Committee on the Media and New Communication Services (CDMC).

¹ On 11 May 2005, the Committee of Ministers of the Council of Europe defined the terms of reference of the Steering Committee on the Mass Media (CDMM) so that it can fully encompass new information and communication technologies and renamed it Steering Committee on the Media and New Communication Services (CDMC).

6. On 13 May 2005, the Committee of Ministers adopted a Declaration on human rights and the rule of law in the Information Society, which had been prepared by the Multidisciplinary Ad hoc Committee of Experts on the Information Society (CAHSI) (cf. also item 13.e below). The CDMC had been represented by its Chairperson at the two meetings of the CAHSI, held in February and April 2005.

7. The CDMC took note that the request to the Committee of Ministers to authorise the Group of Specialists on Human Rights in the Information Society (MM-S-IS) to hold its second meeting in Budapest on 14 and 15 September 2005, had been withdrawn in view of the fact that the Hungarian authorities are no longer in a position to host this meeting nor the pan-European Forum. These activities would now take place in Strasbourg (see item 12.b(i) below).

8. Finally, the CDMC was informed that, in May 2005, the Committee of Ministers had given ad hoc terms of reference to the Steering Committee for Human Rights (CDDH) to prepare a legally binding instrument on access to official documents. The CDDH has given this task to its Group of Specialists on Access to Official Information (DH-S-AC), which will give priority to deciding which legal form this instrument should take and, as regards content, will base itself mainly on the principles contained in Recommendation Rec(2002)2 on access to official documents.

Item 4 of the agenda: Future work of the CDMC (2005 to 2008)

a. Feedback from non-governmental organisations on the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)

9. Mr Gabriel NISSIM, President of the Human Rights Grouping of the INGOs enjoying participatory status with the Council of Europe, was invited to speak to the CDMC in order to provide the non-governmental organisations' feedback on the Ministerial Conference.

Mr Nissim expressed sincere appreciation for the way in which the CDMC had involved the NGOs in the preparation of the texts for, and the proceedings of, the Kyiv Ministerial Conference. The Conference had provided an opportunity for a dialogue between the NGOs and the Council of Europe and he hoped that such close collaboration would continue in the future. In particular, he hoped it would be possible for the Conference of NGOs to be granted similar participatory status in the CDMC as that enjoyed by the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe.

An added value of the NGO Forum organised prior to the Ministerial Conference was that it provided an occasion for the NGOs specialised in the media field to meet and exchange views with NGOs from other sectors which were nonetheless concerned by media issues in society in general. Mr Nissim suggested two initiatives which might strengthen the network of NGOs active in the media field, namely the organisation of a European week on freedom of expression and information and the establishment of a permanent platform on media diversity.

10. One of the issues of current concern to the Conference of NGOs is the strengthening of intercultural and inter-religious dialogue, particularly in the context of the fight against terrorism. Mr Nissim hoped that some form of cooperation could be established with the Group of Specialists on freedom of expression and information in times of crisis (MM-S-IC). He considered the Award for those media having made an outstanding contribution to conflict prevention or resolution, understanding and dialogue, to be an important initiative. The Conference of NGOs is also interested in other topics being dealt with by the CDMC's subordinate Groups, such as the protection of minors against harmful content and the role of public service broadcasting.

11. In the ensuing discussion, the CDMC was unanimous in its appreciation of the NGO input to the Ministerial Conference and considered that further cooperation with the Conference of NGOs on a regular basis would be of great value to the Steering Committee. In particular, the Conference could be called upon to assist in the following ways:

- act as an early-warning system in identifying any important issues relating to freedom of expression and freedom of the media that might have escaped the attention of the CDMC;
- contribute to the preparation of Council of Europe non-binding instruments in the media field from the viewpoint of civil society;
- disseminate information about existing Council of Europe standards in the media field in order to make them more widely known;
- contribute to holding governments of member States accountable in cases where Council of Europe standards are not implemented or respected.

12. The CDMC thanked Mr Nissim for the non-governmental organisations' feedback on the Ministerial Conference. It agreed to the request made by the Conference of NGOs to participate in the work of the CDMC. In the context of the revision of the CDMC's terms of reference to be carried out by the end of 2005, further consideration will be given to the status of the Conference of NGOs in the light of the applicable Council of Europe rules.

b. Texts adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)

13. Further to the proposal made by the Bureau at its May 2005 meeting to address each of the points of the Action Plan adopted during the Kyiv Ministerial Conference, the CDMC examined a list of those paragraphs not covered by the terms of reference of the four groups of specialists (cf. document CDMC (2005) 6).

After considering the issue, the CDMC requested that the Secretariat prepare detailed proposals for action, including where appropriate a work plan, in respect of the above-mentioned points of the Action Plan.

14. The CDMC noted that the Greek and Ukrainian authorities had translated the texts adopted at the Ministerial Conference and had taken steps to disseminate them. It welcomed this initiative and the fact that the translations had been made available in electronic form to the Secretariat to place on the Media Division's website. The Chairperson encouraged other delegations to follow this example.

c. Texts adopted at the Third Summit of Council of Europe Heads of State and Government (Warsaw, 16 and 17 May 2005)

15. The CDMC noted that, in the Action Plan adopted in Warsaw (cf. document CM(2005)80 final, paragraph I.3), the Heads of State and Government of the Council of Europe reiterated their commitment to guarantee and promote freedom of expression and information and freedom of the media and expressed their support, in particular, for the Declaration and Action Plan adopted at the Kyiv Ministerial Conference. They also accorded considerable importance to strengthening human rights in the information society (paragraph II.5). The Steering Committee was pleased to note the close correspondence of its work to the overall policy of the Council of Europe.

16. The Chairperson drew the CDMC's attention to the fact that the Heads of State and Government had specifically encouraged further cooperation between the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) as regards freedom of expression and information and freedom of the media. The Steering Committee noted, in this connection, that a high level meeting between the Council of Europe and the OSCE will take place on 8 July 2005 with a view to discussing cooperation between the two organisations.

The representative of the OSCE welcomed the opportunity for the OSCE Representative on the Freedom of the Media to be represented in the CDMC and the possibility to develop greater synergy between the two bodies. He recalled that, with 55 participating states, the OSCE has a good overview of matters related to the work of the CDMC, e.g. as regards defamation, which is currently the subject of an OSCE campaign for its decriminalisation. He also highlighted the OSCE field presence, an asset for the Council of Europe when seeking to implement standards. Finally, the representative of the OSCE mentioned that organisation's work on the subject of new communication technologies.

d. Terms of reference of the CDMC

17. The Chairperson informed the CDMC that the changes introduced in the terms of reference following the request of the Ministers who participated in the 7th European Ministerial Conference on Mass Media Policy had been kept to a minimum (cf. paragraph 5); the changes had been agreed between the Chairperson and the Secretariat, and the Bureau had been informed. This approach had been adopted in the interest of speed, leaving for a later stage a more in depth review, which required broader discussion within the CDMC; moreover, the current terms of reference come to an end on 31 December 2005.

18. A number of experts indicated that the terms of reference should take full account of the Action Plan adopted at the Kyiv Conference. In this connection, the Chairperson clarified that they would run until the end of 2008, providing a three-year period for taking the action required for the implementation of the action plan. One expert stressed that the terms of reference should be drafted bearing in mind the central importance of human rights in the work of the Steering Committee.

19. Some experts also pointed out the need to review the list of observer organisations, given that some may no longer exist and others, e.g. UNESCO, should be added (cf. also paragraph 12). The Secretariat confirmed that some contacts had been held with UNESCO, organisation that had expressed an interest in being an observer with the CDMC. The Steering Committee noted that UNESCO already has observer status with two of the CDMC's four groups of specialists. It was suggested that consideration also be given to including the World Intellectual Property Organization (WIPO) as an observer.

20. The CDMC invited experts to provide, by 1 September 2005, comments on the points that should be mentioned in the Steering Committee's new terms of reference and requested the Secretariat to prepare, on the basis of those suggestions, a draft for consideration by the Bureau during its next meeting.

21. The CDMC noted the need to change the acronyms of its subordinate bodies to reflect the change in the Steering Committee's own name, namely MC-S-IC for the Group of Specialists on freedom of expression and information in times of crisis, MC-S-IS for the Group of Specialists on human rights in the Information Society, MC-S-MD for the Group of Specialists on Media Diversity and MC-S-PSB for the Group of Specialists on public service broadcasting in the Information Society.

Item 5 of the agenda: Working methods of the CDMC

22. The CDMC held a lively exchange on its working methods, following the issues identified by the Bureau and, in part, those that had been discussed by the Steering Committee at previous dates (cf. documents CDMC (2005) 4 and CDMC (2005) 5).

23. The CDMC underlined the importance of it being composed of delegates with mass media and/or new communication services profiles.

The CDMC decided that, following the review of its terms of reference before the end of 2005, a letter be sent to all member states and observer states and organisations, drawing attention to the broadening of the scope of the CDMC's remit and of the desirability of including in its composition experts on new communication services, while stressing that freedom of expression and information and the media remains a fundamental part of the work

of the Steering Committee. It was agreed that the Bureau would be consulted on and approve the draft.

24. Several experts stressed the importance of the coordinating role within their respective countries of persons appointed to the CDMC; this is an essential task, given that it is impossible for members to have an adequate level of expertise in all areas of work of the Steering Committee.

Moreover, the persons appointed to attend CDMC meetings can be accompanied by other experts (whose travel and subsistence expenses are not reimbursed by the Council of Europe) for the whole duration or only part of a meeting. In order to exploit this possibility effectively, it is necessary for the order of business to identify clearly the time when a particular item will be discussed and for the timetable to be respected, subject, however, to any unavoidable changes.

25. One expert suggested that there might be a need, in the interest of efficiency, for participants to reduce their speaking time and to focus their interventions. In this connection, some experts raised the question of shortening the duration of meetings; they considered that four-day meetings are too long. It was suggested to reduce them to three days. Such an approach would reduce costs for both the expert's home administration and the Council of Europe. This proposal, which had already been considered by the CDMC in the past, received only very limited support. The Chairperson pointed out that the shorting of meetings would possibly require a redistribution of work between the CDMC and its Bureau.

26. With regard to the groups of specialists, the Chairperson and some experts underlined the importance of clearer guidance from the CDMC. In this connection, one expert expressed the view that the terms of references of three of the groups of specialists are too broad and that the CDMC did not have a clear vision of the objectives pursued.

Several experts also highlighted the desirability of better communication between experts appointed to the Steering Committee and those participating in meetings of the groups of specialists. This would contribute to enhancing the coordination role of CDMC members and improve the potential contribution of groups of specialists to the work of the CDMC.

27. The CDMC examined whether specific rules should be adopted with a view to ensuring that draft documents prepared for transmission to the Committee of Ministers for consideration and possible adoption (e.g. Declarations, Recommendations) are not repeatedly discussed by the Steering Committee when only a few delegations do not support the text. Certain experts favoured adopting a majority rule that would permit transmission in such cases of the draft to the Committee of Ministers. However, the general view was that unanimity or consensus should continue to be sought, with one expert formally objecting to a majority vote approach; he argued that, in the context of developing human rights standards, a longer process of approximating positions may well be required before a text is finalised. Nonetheless, it was agreed that, in exceptional cases where consensus cannot be reached due to lack of support of only a few delegations, it should be possible to make progress with a

draft text and transmit it to the Committee of Ministers which, in all circumstances, will have the final say.

28. With regard to the classification and publication of reports and other documents, the Secretariat briefly described the rules previously adopted by the CDMM (cf. document CDMC (2005) 5). Although publication is not automatic under these rules, the recent trend has been to consider most documents as public with the exception of those transmitted to the Committee of Ministers for consideration, such as the abridged report of the Steering Committee meetings (i.e. the list of decisions) to which final draft recommendations and declarations are attached.

In response to queries by a few experts, the Chairperson confirmed that correspondence from national authorities addressed to the Secretariat, as well as miscellaneous documents submitted from outside sources, did not fall within the scope of documents to be made public. Another expert had doubts as to the appropriateness of immediately publishing the full reports of the CDMC on the web site of the Media Division, considering that a distinction needed to be made between information and communication.

The CDMC was mostly in favour of full transparency, on condition that requirements of privacy and anonymity are respected. Nevertheless, in appropriate cases (e.g. involving copyrighted material), a request by the author of a document that it remains restricted would have to be respected.

The CDMC requested that the Secretariat prepare a draft set of rules on the basis of the discussion, which should be submitted to the Legal Advice Department of the Council of Europe, and to the Bureau at its next meeting in October 2005.

29. Certain experts raised the issue of the visibility of the work of the Council of Europe – and of the CDMC – in the area of freedom of expression and information and freedom of the media. There was general agreement that efforts in this respect should be pursued, and enhanced. In this connection, the CDMC noted that, in certain Council of Europe member states, information on the ongoing work and results of the work of the Council of Europe in the media field is provided to interested parties through the Internet pages of relevant bodies; this is a welcome approach that might usefully be extended.

30. In this context, the CDMC discussed whether, in appropriate cases involving grave and systematic violations of the right to freedom of expression and information, it should take a stand and make it publicly known. One expert raised the question whether it is the role, or if it is within the terms of reference, of the Steering Committee to adopt such an approach. Nonetheless, experts were broadly of the view that the adoption of such a measure from time to time should be possible in respect of the violations in question.

Item 6 of the agenda: **Draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired**

31. Mr Christopher DAWES (United Kingdom), Chairperson of the ad hoc Working Group on exclusive rights and the right of the public to information (MM-WG-EX), reported on the work carried out by the Group at its meeting on 19 and 20 April 2005 (cf. document MM-WG-EX(2005)004). He also gave an overview of the work carried out on the subject by the Group of Specialists on Digital Broadcasting (MM-S-DB) since March 2003.

32. Mr Dawes indicated that, after exploring the possibility of extending the scope of the Committee of Ministers' Recommendation No. R (91) 5 beyond television to apply to other media such as the press, radio and the new services, the Group had concluded that the specificity of each sector of the media demanded principles tailored for each of them. The challenge was to strike a fair balance between the public's right to information on major events and the interests, and rights, of certain of the key players concerned (e.g. sports federations, other rights holders, news agencies). He clarified that "webcasting" (on-line broadcasting of moving pictures or audiovisual sequences) had been excluded from the ambit of the draft Recommendation, given the risks to the rights of the primary holders. The question of whether webcasting should be assimilated to traditional broadcasting services has not yet been settled; consequently, as indicated in the draft, the matter remains to be considered, if appropriate, in light of developments in this field.

Mr Dawes also indicated that the interest of the draft Recommendation resides in that neither the laws on competition and copyright, nor contractual arrangements (although the latter operate in a satisfactory manner in certain countries), provide a totally satisfactory response to existing problems in the area of access to information on major events; a Recommendation on this subject might therefore be a useful instrument for legislators.

33. Some experts expressed their appreciation for the work carried out by the Working Group, stating that the draft Recommendation was in principle acceptable, although one of them indicated that, in the present circumstances, his country would probably have to make a reservation in the event of the text being adopted by the Committee of Ministers due to the matter being sub-judice.

Two representatives of observer organisations indicated that, before pronouncing themselves on the draft Recommendation, they should consult their members. Another observer considered that, in its current form, the draft does not address existing problems and that it only restates existing norms; the subject should therefore remain under consideration. Mr Dawes recalled that the remarks from various associations and other interested parties had already been considered by the Working Group.

34. In reply to one expert's question concerning the lists of major events supposed to be covered by television (Principle 3), Mr Dawes pointed out that a distinction should be drawn between the provisions of the European Convention on Transfrontier Television or the "Television without Frontiers" Directive (live coverage) and those of Recommendation No. R

(91) 5 which solely contemplated short reports (of about 90 seconds) for information purposes.

35. Given controversies regarding this issue and the fact that most delegations had not yet been able to consult their authorities, it was decided that the draft Recommendation be placed on the agenda for the second meeting of the CDMC.

Item 7 of the agenda: Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation

36. By decision of 24 November 2004, the Committee of Ministers of the Council of Europe instructed the Steering Committee inter alia to look into “the alignment of laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation”.

The Chairperson presented a paper prepared by the Secretariat (cf. document CDMC (2005) 007 prov.), providing information on the laws on defamation of Council of Europe member states and outlining the relevant case-law of the European Court of Human Rights, other Council of Europe standards and the position of other international bodies on the subject: the paper also includes a tentative assessment on the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights.

37. Additional presentations on the jurisprudence of the European Court of Human Rights in cases of defamation and on the question of decriminalisation of defamation were made by Judge Riza TÜRMEŒ of the European Court of Human Rights, Mr Peter NOORLANDER, Legal Officer at the non-governmental organisation Article 19, and Mr Adrian TUDORICA of the Council of Europe Department for the Execution of Judgments of European Court of Human Rights. The CDMC thanked warmly Judge Türmen and Messrs Noorlander and Tudorica for their enlightening contribution to the Steering Committee’s discussion on the question of defamation.

From the presentations and subsequent exchanges between the speakers and the CDMC, it emerged that the Secretariat paper identifies the key issues at stake and suggests appropriate conclusions. The CDMC expressed its appreciation of the Secretariat’s work in preparing what was generally seen as an excellent introduction to the subject. Nevertheless, some experts felt that the paper’s conclusions (i.e. that national legal frameworks are mostly not in line with the case-law of the European Court of Human Rights) may be too general, given differences in the application of legal provisions between countries, and that the national context should be taken into account.

38. The CDMC noted in particular that the role of the European Court of Human Rights is to determine whether, in a given case, the interference by the state (e.g. the sanction imposed) was proportional and adequate. Nonetheless, it is possible to elicit general standards from the Court’s findings. In particular, having regard to the relevant case-law, it can be said that

imprisonment is incompatible with Article 10 of the European Convention on Human Rights. The exceptions frequently referred to do not, strictly speaking, relate to freedom of expression and information, but involve possible unlawful conduct unrelated to defamation (i.e. which does not concern the protection of a person's reputation), such as hate speech or violation of private life.

It was underlined that, according to the Court, the European Convention on Human Rights affords the media higher protection from interference in cases involving matters of public interest or public figures. This approach is often contrary to the one followed in Council of Europe member states' domestic laws.

Criminal sanctions not involving imprisonment and other measures involving a punitive element (suspended sentences, prohibition to work, award of disproportionate damages, suspension of business) can result in self-imposed restraint on the dissemination of information or opinion by the media, the so-called chilling effect. This would also not be consistent with Article 10 of the European Convention on Human Rights.

39. The CDMC further heard that in general terms, criminal law or other punitive provisions should be applied sparingly and only when necessary. Moreover, according to Council of Europe standards, deprivation of liberty should be a measure of last resort. Against this background, it was argued that, in so far as defamation is concerned, civil measures constitute a suitable alternative to criminal proceedings.

40. The European Court of Human Rights cannot pronounce itself in respect of criminal law provisions in force on defamation which are not applied (as is the case in many Council of Europe member states), because an application to the Court requires an alleged victim. However, it was suggested that, following a recent Grand Chamber judgement which might serve as a leading case, the use of many such legal provisions to sanction defamation, notably with measures involving deprivation of liberty, could result in the European Court of Human Rights finding that such interference was in violation of Article 10.

The guest speakers questioned the interest of maintaining legal provisions in force which have fallen into desuetude if their application would fall foul of the European Convention on Human Rights.

41. One of the guest speakers suggested that the conclusions in the paper prepared by the Secretariat (e.g. "the current European legal landscape in respect of defamation is, in broad terms, not in line with the case-law of the European Court of Human Rights") could reasonably be worded in more categorical terms.

42. The experts from Bosnia and Herzegovina, Georgia and Ukraine shared with the CDMC experiences in their countries following the repeal of criminal law provisions on defamation. In particular, the changes to the law in Bosnia and Herzegovina and Ukraine led to a significant rise in the number of civil defamation proceedings, especially those initiated by politicians. However, as regards Bosnia and Herzegovina, many such cases were not successful, some being declared inadmissible at the outset, and the average damages awarded

were characterised as being very low (around 2,500 Euros). It was suggested that the existence of better mechanisms for settling differences could significantly reduce the number of court proceedings related to defamation.

43. The CDMC held an exchange of views on the additional steps to be taken in response to the request of the Committee of Ministers.

Several experts stated that sufficient information had already been gathered on the subject, some suggesting that the CDMC adopt a strong statement for transmission to the Committee of Ministers or that the paper prepared by the Secretariat be adopted by the CDMC and submitted to the Committee of Ministers.

The Chairperson underlined that nearly every other international organisation, including their specialised bodies, have called for the decriminalisation of defamation. It would be strange for an organisation defending human rights and, more particularly, the right to freedom of expression and information, not to support decriminalisation of defamation. Other experts agreed that the giving of a clear signal should be envisaged, but stressed the interest of prior consultation with relevant authorities in their home countries (e.g. Ministries of Justice).

One expert suggested that, in certain cases, members of parliament may not be overly keen to decriminalise defamation if they themselves enjoy immunity from prosecution for defamation while being offered enhanced protection against the dissemination of information or opinions that are not to their liking. Another expert expressed the view that the decriminalisation of defamation requires the development of alternative means to protect a person's reputation (e.g. under civil law) in conditions offering all parties concerned appropriate means of defence; this is of particular relevance when, for example, individuals wish to exercise their rights against powerful corporations.

44. It was decided that CDMC members gather and submit by 1 September 2005 further information on the laws and practice concerning defamation in their respective countries; where appropriate, experts should consult other relevant authorities. This would help the Secretariat to make appropriate changes to the paper prepared by it. This consultation should also provide an opportunity to seek those authorities' views on the subject of decriminalisation. For this purpose, the Secretariat was asked to prepare and circulate a brief set of questions that such authorities might be asked to answer. It was also suggested that experts could ask authorities to provide comments on the paper on defamation prepared by the Secretariat.

A few experts considered that further information on the laws in force and practice in Council of Europe member states was required; this would permit a response to the Committee of Ministers consisting of a state-by-state assessment of the situation. However, the prevailing view was that a general, rather than a country-specific, assessment was called for, in particular given that the Committee of Ministers had already examined the state-by-state information on defamation in the context of its own monitoring procedures.

If it can be done on the basis of all the information already available, the Secretariat was therefore asked to prepare a first preliminary draft assessment of the alignment of the laws on

defamation with the case-law of the European Court of Human Rights in time for consideration during the CDMC's second meeting.

As regards the question of decriminalisation of defamation, an informal working group was set up (composed of the experts from Belgium, Denmark, the Netherlands and Turkey) that should make proposals on the orientation that might be adopted, taking due account of other competing rights and/or interests, and suggest the means that might be used to protect individuals in the absence of criminal law provisions. These proposals should preferably be submitted in time for discussion at the second meeting of the CDMC.

It was also noted that representatives of the OSCE and possibly the Steering Committee on Legal Cooperation (CDCJ) and the Consultative Council of Judges (CCJE) could be invited to attend the second meeting of the CDMC to continue the exchange of views on this subject.

Item 8 of the agenda: European Convention on Transfrontier Television

45. The Chairperson recalled that the European Convention on Transfrontier Television provides an international framework for the unhindered transfrontier or cross-border circulation of television programme services, laying down a set of minimum rules in essential areas of transfrontier broadcasting; it also provides a mechanism for resolving disputes on cross-border television transmission. The Convention is open for signature by Council of Europe member states and for accession by non-member states. It entered into force on 1 May 1993, and was amended in 1998 (with entry into force in 2002) with a view to the alignment between the Convention and the "Television Without Frontiers" Directive of the European Community.

The Convention applies to relations between two States parties, when at least one of them is not a member of the European Union or another country to which Community rules apply. As matters stand, the states in respect of which the Convention alone applies are Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Moldova, Romania, San Marino, Switzerland, "the former Yugoslav Republic of Macedonia" and Turkey, as well as one Council of Europe observer state, the Holy See.

46. The CDMC noted that work on the revision of the European Convention on Transfrontier Television has been started by the Standing Committee on Transfrontier Television. Documents have been or are being finalised on the issues of advertising, sponsorship and teleshopping; on questions concerning the scope of the Convention, jurisdiction, freedom of reception and retransmission, the duties of the Parties of the Convention, advertising directed at a single Party and the abuse of rights granted by the Convention; and on questions concerning the protection of minors and respect for human dignity.

47. Following a request from the Steering Committee on Transfrontier Television for views on possible new issues to be addressed in the Convention, European Commission Director General for "Information Society", Mr Fabio COLASANTI, suggested, by letter of 1 February 2005, that it might address issues that are in the remit of the Council of Europe but

not regulated by the European Union and its “Television Without Frontiers” Directive. Mr Colasanti identified the following issues to be considered for future Council of Europe audiovisual regulation: the role of public service broadcasting for a democratic society, media pluralism and television, and the role of independent regulatory authorities.

The Chairperson indicated that this proposal had been examined by the Standing Committee on Transfrontier Television at its last meeting. The Standing Committee concluded that Council of Europe instruments dealing with the role of public service broadcasting for a democratic society and the role of independent regulatory authorities already exist. Work done by the Council of Europe on the issue of media pluralism has produced Committee of Ministers recommendations on measures to promote media transparency and measures to promote media pluralism, but has not led to the adoption of any binding instruments. The Standing Committee therefore doubted whether the issues proposed by Mr Colasanti should be addressed in the Convention.

Nonetheless, several experts declared that the issues raised by Mr Colasanti concerned the central political questions facing the Council of Europe in its media-related activities.

48. There was general agreement that one of the objectives of the Convention was to extend the European audiovisual area to countries where the European Union Directive does not apply. That had been attained in the case of ten Council of Europe Member states and one observer state – an achievement to build upon by extending the territorial scope of the Convention to more countries. Some experts highlighted the interest of encouraging ratification of the Convention also by states which are not members of the Council of Europe. There was also general consensus that any future revisions of the Convention need to be aligned with those of the “Television Without Frontiers” Directive.

The representative of the European Commission informed the CDMC of the Commission’s intention to significantly redraft the “Television Without Frontiers” Directive. It is expected that a draft will be available before the end of the year.

49. It was decided that the experts further discuss the future of the Convention with their respective national authorities. They should pay particular attention to the future of those countries that are parties to the Convention but where the European Union Directive does not apply and to the question of a possible new scope for the Convention. The Steering Committee will consider the question again at its next meeting and, in doing so, will take into account any work done towards the revision of the “Television Without Frontiers” Directive.

Item 9 of the agenda: European Convention on the legal protection of services based on, or consisting of, conditional access

50. The Secretariat recalled that the European Convention on the legal protection of services based on, or consisting of, conditional access (open for signature by Council of Europe member states and accession by non-member states) entered into force, with three ratifications, on 1 July 2003; at present, it is in force in respect of six member states (Bulgaria, Cyprus, Romania, Moldova, the Netherlands and Switzerland) and has been signed but not

ratified by another four member states (France, Luxembourg, Norway and the Russian Federation).

The purpose of the Convention is to make illegal certain activities which give unauthorised access to broadcasting and information society services offered against payment and based on, or which consist of, conditional access; it requires States parties to approximate their legislation in this area. The Convention foresees the holding every two years (or at any time upon the request of a party thereto) of multilateral consultations within the Council of Europe to examine its application.

The Secretariat explained that this item had been included on the agenda in order for the CDMC to consider possible steps to encourage states which were not parties to the Convention to ratify it.

51. One expert indicated that his authorities had considered ratifying the Convention but had not yet done so because they wondered if this was not a matter for the European Union rather than for its member States. He asked the European Union member States which had already signed the convention what view they had taken on the question.

In response, one expert said that before ratifying the Convention, his authorities had consulted the European Commission's Directorate General for Competition, which had raised no objections. Another said that her country had already ratified the Convention and that no difficulties had arisen; nonetheless, the authorities considered the Convention difficult to apply and the prevailing feeling was that it was for industry to take initiatives in this area and that criminal sanctions should only be a measure of last resort. A third expert said that his country had signed the Convention and that the draft law ratifying the Convention would be submitted to Parliament in Autumn 2005; the question of the European Union's remit had not slowed down the process. By contrast, another expert said that her authorities had so far considered that this was a matter for the European Union.

The expert who raised the question noted that the European Union member States held diverging views and asked whether the forthcoming Presidency of the United Kingdom could put the question on the agenda.

52. As regards countries that are not members of the European Union, one expert informed the CDMC that preparations for the procedure required for ratification by Parliament were in progress in his country. Another expert said that her authorities were in favour of ratifying the Convention but that industry needed time to prepare for it. A further expert said that legislative alignment needed to be undertaken in her country before ratification; she drew the CDMC's attention to paragraphs 2 and 3 of the Convention and suggested that member States which have already ratified should offer their advice and experience.

Item 10 of the agenda: Exchange of views on copyright in the context of the work of the CDMC

53. Professor Thomas DREIER, of the Institute of Information Law, University of Karlsruhe, former member of the CDMM's Advisory Panel on Intellectual Property and expert on copyright matters, was invited by the CDMC to make written and oral submissions summarising the issues and developments regarding copyright in the light of European and international standards, including those of the Council of Europe (cf. document CDMC (2005) 9).

54. The CDMC held preliminary discussions on the balance between fundamental rights to freedom of / access to information and the protection of the rights of copyright holders, with particular reference to the public interest and the possible limitations arising from Article 10 of the European Convention on Human Rights and the case-law of the European Court of Human Rights. Consideration was also given to the standards and work of other organisations including the European Union, UNESCO and WIPO.

In response, Professor DREIER concluded that there was considerable added value for the Council of Europe to examine the public interest in copyright, in particular as regards the extent of the meaning of the right to freedom of / access to information.

55. The CDMC considered that its primary interest lay in the issue of the impact of copyright on the exercise of the right to freedom of / access to information, but that further consultation and examination of copyright in the context of ICTs and new communication services was needed. On this basis, it agreed upon two interim measures:

- to set up an informal working group of CDMC members to exchange ideas and information on the above-mentioned copyright issues and to make proposals to the CDMC about possible future work – these exchanges and proposals will be led and facilitated by the representative of the Slovak Republic in partnership with the Secretariat;
- to explore the possibility of organising in 2006 a conference on copyright based inter alia upon the work and proposals of the above-mentioned informal working group of CDMC.

56. The CDMC thanked Professor DREIER for his clear and informative written and oral submissions and looked forward to cooperating with him in any future work on copyright issues.

Item 11 of the agenda: Draft Recommendation on ways of improving the relationships between health authorities and the media

57. The CDMC welcomed the opportunity to comment on the draft Recommendation (cf. document CDMC (2005) 2), submitted to the Committee of Ministers of the Council of Europe by the European Health Committee. However, some experts expressed regret that time

constraints prevented broader consultation on the subject, in particular vis-à-vis media and journalist representatives and associations.

58. The CDMC considered the draft Recommendation from two angles, namely the existing Council of Europe standards on freedom of expression and information and the general advisability of adopting such a document in the context of the Council of Europe's vocation and goals.

In general, experts expressed the view that the draft text does not raise particular issues in respect of the former. By contrast, a number of experts expressed misgivings as concerns the profuse and detailed guidance in the draft Recommendation on how health authorities should secure media coverage of their activities. While recognizing the importance of providing information to the general public on health-related issues, some experts viewed the draft Recommendation, and more particularly the Appendix, more as guidance to public relations departments of health authorities on how to lobby the media than an instrument which might serve the public's right to information on health and the work of health authorities.

59. The CDMC decided to transmit these views to the Committee of Ministers.

Item 12 of the agenda: Work of the CDMC's subordinate bodies

a. Group of Specialists on freedom of expression and information in times of crisis (MM-S-IC)

60. The Secretariat presented a brief summary of the results of the 1st meeting of the MM-S-IC held on 25 and 26 April 2005 (cf. document MM-S-IC (2005) 4). It mentioned two matters in respect of which the Group of specialists had requested further guidance from the CDMC, namely the question of investigative journalism (what are the Group's tasks and expected results) and the institution of an award for media which make an outstanding contribution to conflict prevention, or resolution, understanding and dialogue (point 7 of the Action Plan adopted at the Kyiv Conference) (whether the Group should make proposals to the CDMC on the subject).

61. With regard to the question of investigative journalism, one expert suggested that, in the first place, it would be necessary to have a clearer idea about existing legal provisions at domestic level. Investigative journalism can be dangerous. The question is therefore whether specific legal provisions protect investigative journalists, particularly in times of crisis. One observer pointed out that it is more a question of how general legal provisions (e.g. use of an assumed identity) apply to investigative journalists using unorthodox ways to obtain information; the answer is therefore to be found in the case-law of domestic courts.

It was suggested that these matters could be explored through a questionnaire addressed to CDMC members. The Chairperson of the MM-S-IC agreed with this suggestion and proposed

that the Group wait until the consultant's report is ready, which would provide a better basis for formulating relevant questions.

62. The Chairperson of the CDMC recalled that the primary task of the MM-S-IC is to explore the dangers and challenges to freedom of expression in times of crises and whether the so-called war on terrorism poses a permanent threat to freedom of the media. In particular, the Group should take stock of existing international norms and make proposals concerning the method to monitor implementation of relevant Council of Europe standards and submit proposals to the CDMC on other subjects specified in its terms of reference.

In this connection, one expert recalled that the Declaration on freedom of expression and information in the media in the context of the fight against terrorism had only been adopted by the Committee of Ministers of the Council of Europe on 2 March 2005. Given its recent adoption, it would be premature to assess the degree to which the Declaration has been implemented and to seek to identify further action required. In response to another expert, the Secretariat confirmed that the Group had already foreseen to examine the issue of the professional standards applied by journalists when covering situations of crisis.

63. The CDMC requested that the Secretariat submit to the Bureau more detailed proposals on action that might be taken upon, or amendments required to, the terms of reference of the MM-S-IC. The proposals should be prepared in time for them to be considered by the Bureau in October 2005 and by the CDMC during its next meeting.

On the issue of instituting an award for media which make an outstanding contribution to conflict prevention, or resolution, understanding and dialogue, it was decided to ask the MM-S-IC to examine the matter and submit a proposal to the CDMC on the subject.

b. Group of Specialists on human rights in the Information Society (MM-S-IS)

(i) work of the MM-S-IS

64. In the light of the terms of reference of the MM-S-IS, the Secretariat presented the work carried out both during and since the first meeting of the MM-S-IS (cf. document MM-S-IS (2005) 6), with particular reference to the main results to be achieved in 2005:

- the submission of the research paper on harmful content by expert consultant Ms Rachel O'CONNELL, which will be examined by the MM-S-IS at its second meeting (14 and 15 September 2005) with a view to its finalisation and publication in Autumn 2005;
- the organisation of the Pan-European Forum on "Human Rights in the Information Society: Responsible Behaviour by Key Actors", to be held in Strasbourg on 12 and 13 September 2005;

- the revision and update of the Council of Europe Handbook on Internet Literacy, which will be examined by the MM-S-IS at its second meeting, with a view to its finalisation and publication in Autumn 2005.

65. The CDMC also gave some brief consideration to the debate regarding the regulation of internet content (i.e. no regulation or self/co-regulation) and invited the MM-S-IS to consider this debate in its future work. In this connection, it noted the position against regulation, including self-regulation, of the OSCE.

(ii) request for observer status by the non-governmental organisation European Digital Rights (EDRI)

66. Ms Meryem MARZOUKI, representative of EDRI, presented information concerning the origins, composition and work of EDRI and explained that, because of its unique position in Europe, in particular by being the only NGO grouping in Europe which actively deals with human rights (including civil, political, social, economic and cultural rights) in the information society, it would bring considerable added value to the work of the MM-S-IS.

The CDMC thanked Ms MARZOUKI for her presentation and unanimously agreed to invite EDRI as an observer to the MM-S-IS.

c. Group of Specialists on media diversity (MM-S-MD)

67. The Secretariat outlined the work carried out by the Group at its first meeting held on 21 and 22 March 2005 (cf. document MM-S-MD (2005) 3). The Vice-Chairperson of the Group confirmed that its work, as defined in its terms of reference, had got off to a good start. In particular, the Group decided to entrust a consultant with an ambitious study on the impact of media concentration on diversity of content. Progress on this project had been slightly delayed due to financial constraints. The Group had also considered the setting up of a permanent mechanism for monitoring media concentration and the related technical and financial difficulties.

68. One expert pointed out that many studies on media pluralism had been conducted over the past twenty years or so, but that for lack of political will, no significant decisions had resulted. He therefore wondered what a further study would contribute.

The Chairperson of the CDMC underlined that the Steering Committee had a duty to keep this topic on its agenda, because of the importance of media pluralism to democracy. The Group's approach, which involved determining whether there was a link between media concentration and standardisation of content, should be pursued. Several other participants supported the approach chosen by the Group in carrying out its terms of reference and emphasised the added value that this study might provide.

Other experts suggested that the Group should consult the regulatory authorities of the member states, because they regularly monitor content. They also asked the Group to consider non-governmental organisations' contributions on the subject.

69. One expert drew the CDMC's attention to two important points in the negotiations on the international convention on the protection of the diversity of cultural contents and artistic expressions: firstly, references to the public broadcasting sector and media diversity had, in the end, been included in the Convention at the insistence of his country's delegation to UNESCO, a position which the EU had accepted; and secondly, the relations between this Convention and other instruments, including those of the WTO, remained to be determined.

He called on other experts to ensure that their countries' delegations to UNESCO saw to it that references to the public broadcasting sector and to media diversity remained in the text soon to be adopted and that a balanced position was worked out regarding the Convention's relationship with other international instruments.

70. Lastly, the Secretariat informed the CDMC that the Romanian delegation, which had not yet been included in any one of the specialist groups with their expenses borne by the Council of Europe, had asked to join the MM-S-MD in this capacity. The Steering Committee approved this request and agreed to include Romania among the countries listed in the terms of reference of the MM-S-MD.

d. Group of Specialists on public service broadcasting in the Information Society (MM-S-PSB)

71. The Secretariat reported on the Group's first meeting, held on 2 and 3 May 2005 (cf document MM-S-PSB (2005) 6). The Group had agreed to address the issue of public service media in the new digital environment in a general way, without confining itself to traditional broadcasting organisations, since public service tasks could be assigned to a wide range of institutions/entities/services.

The CDMC noted that Mr Christian NISSEN, expert consultant, had prepared a draft study on how the public service remit should be developed and adapted to the Information Society. Mr Nissen will prepare a revised version of the study, having regard to the exchange held with the MM-S-PSB, before the Group's second meeting in November 2005: the study could be used as a basis for drafting a policy document on this subject.

The MM-S-PSB will also examine public service broadcasters' strategies for promoting wider democratic participation of individuals in the Information Society. To this end, it decided to hold a hearing at its next meeting with representatives of public service broadcasting organisations and specialists in new interactive technologies.

Lastly, the MM-S-PSB agreed to prepare a report on the independence of public service broadcasters in member States on the basis of the replies to a questionnaire sent by the Secretariat to CDMC delegations. This report should help the Group to draw up any necessary additional guidelines on how to ensure the independence of public service broadcasters.

72. The Chairperson pointed out that the Bureau had expressed support for the MM-S-PSB's approach vis-à-vis public service media. He also highlighted the importance of the Group's task in this connection, given that it is the only intergovernmental body working on this issue, and noted that the Parliamentary Assembly's Recommendation 1641 (2004), addressed to the Committee of Ministers, requested the preparation of a major new policy document on public service broadcasting.

Item 13 of the agenda: Information on the work of other Council of Europe bodies of interest to the work of the CDMC

a. Parliamentary Assembly of the Council of Europe

73. Mr Robert WALTER (United Kingdom), Chairperson of the Parliamentary Assembly's Sub-Committee on the Media, outlined the work recently undertaken by the Committee on Culture, Science and Education. In particular, he drew attention to Recommendation 1706 (2005) on media and terrorism, which had been adopted by the Parliamentary Assembly on 20 June 2005, and the accompanying report by Mr Josef JARAB (Czech Republic).

The Recommendation aims to strike a balance between the protection of freedom of expression and information in the media and preventing the use of the media as a means of contributing to the aims of terrorists. The Parliamentary Assembly calls on the Committee of Ministers, inter alia, to monitor the treatment of terrorism in European media, in particular with regard to its Declaration on freedom of expression and information in the media in the context of the fight against terrorism, and to prepare, in close cooperation with media professionals and other interested parties, a handbook for journalists reporting about terrorist acts and violence.

74. The Chairperson of the CDMC attended a short meeting of the Sub-Committee on the Media on 22 June 2005, when he had an opportunity to inform the members about the work on the above-mentioned subject being carried out by the MM-S-IC.

75. The CDMC's attention was also drawn to Resolution 1438 (2005) on freedom of the press and the working conditions of journalists in conflict zones, adopted on 28 April 2005, and to the reports on honouring of obligations and commitments by the Russian Federation and on functioning of democratic institutions in Azerbaijan. It noted, in particular, that according to those reports, the situation as regards freedom of expression and information and freedom of the media has deteriorated in those countries.

76. In response to a question raised by one expert concerning the Parliamentary Assembly's Recommendation 1674 (2004) on challenges facing the European audiovisual sector, the Secretariat indicated that the Committee of Ministers had adopted a reply to this

Recommendation on 15 June 2005, which was made available to the CDMC. In its reply, the Committee of Ministers underlines its attachment to cultural diversity and agrees with the Assembly that steps should be taken to reinforce the mandate of the Steering Committee for Culture (CDCULT) and encourage the member states of EURIMAGES to increase the Fund's resources. It also indicates that it follows attentively the ongoing preparation within UNESCO of the international convention on the protection of the diversity of cultural contents and artistic expressions, and its implications for the media sector.

b. Congress of Local and Regional Authorities of the Council of Europe

77. The CDMC noted that the Standing Committee of the Congress had adopted, on 2 June 2005, Recommendation 173 (2005) on regional media and transfrontier cooperation. The text is currently before the Committee of Ministers for consideration; it is expected that the Committee of Ministers will refer the text to the CDMC for comments in due course.

c. Steering Committee for Human Rights (CDDH)

78. This point has been dealt with under item 3 of the agenda (cf. paragraph 8).

d. Consultative Council of European Judges (CCJE)

79. The CDMC took note of the written information prepared by Mr Nicholas HODGSON (cf. document CDMC (2005) 3) who, at the invitation of the Secretariat, took part in the 2nd European Conference of Judges on "Justice and the Media" held in Cracow on 25 and 26 April 2005. It thanked Mr Hodgson for taking part in the Conference and for the information submitted on the event.

80. In the light of the current work on justice and the media being carried out by the Consultative Council of European Judges, the CDMC welcomed the opportunity for the Secretariat to take part in the 9th meeting of the Working Party (CCJE-GT) which is to be held in Strasbourg on 29 June to 1 July 2005.

e. Multidisciplinary ad hoc Committee of Experts on the Information Society (CAHSI)

81. Mr Michael REMMERT, Project Manager of the Integrated Project of the Council of Europe on "Good Governance in the Information Society", presented the Declaration of the Committee of Ministers on human rights and the rule of law in the Information Society (cf. document CM (2005) 56 final) which, he explained, was the result of the work carried out by the Multidisciplinary Ad-hoc Committee of Experts on the Information Society (CAHSI) to

elaborate principles and guidelines on the subject. He noted that the CDMM was represented on CAHSI by two experts.

He pointed out that the Declaration was adopted in anticipation of the Third Summit of Heads of State and Government of the Council of Europe, held in Warsaw on 16 and 17 May 2005, and that it would also be submitted as a contribution to the Second Phase of the World Summit on the Information Society (WSIS) to be held in Tunis on 16 to 18 November 2005. He underlined the importance of this Declaration, an opinion which he pointed out was shared by the European Commission, in the event that the WSIS would re-open discussion on human rights.

82. The CDMC thanked Mr Remmert for the information concerning the Declaration and took note of the desirable follow-up work on the Declaration which could be carried out by the CDMC and MM-S-IS, in particular with regard to the examination of the roles and responsibilities of stakeholders in the Information Society to be examined and discussed in the forthcoming Pan-European Forum on “Human Rights in Information Society: Responsible Behaviour by Key Actors”, to be held in Strasbourg on 12 and 13 September 2005.

Item 14 of the agenda: Other information of interest to the work of the CDMC

a. Report on the Luxembourg Presidency of the European Union

83. The representative of Luxembourg did not attend the meeting and was therefore not in a position to provide information on the Luxembourg Presidency of the European Union.

b. Tunis phase of the World Summit on the Information Society (WSIS)

84. The CDMC noted the information provided by Mr Michael Remmert on the Council of Europe’s proposed contribution to the Second Phase of the WSIS to be held in Tunis on 16 to 18 November 2005, namely to hold parallel events on (i) the Organisation’s Convention on Cybercrime, and (ii) its work on harmful content and its standards on e-voting and e-governance.

It also took note of some further information provided by one expert concerning the issue of Internet governance, the proposed Digital Solidarity Fund and the possible post-WSIS follow up, inter alia involving the Council of Europe.

Item 15 of the agenda: Dates of forthcoming meetings

85. The CDMC noted that the Bureau would advance its next meeting to October 2005 (precise dates yet to be confirmed), as well as the dates of other meetings foreseen until the end of 2005 (cf. document CDMM (2005) 11). In particular, the CDMC will hold its second meeting from 29 November to 2 December.

Item 16 of the agenda: Items to be included on the agenda of the 2nd meeting of the CDMC

86. The CDMC considered and approved the list of items to be included in the agenda for its second meeting (cf. document CDMC (2005) 10).

Item 17 of the agenda: Other business

a. Election of a Bureau member

87. The Chairperson recalled the rules which apply to the election of Bureau members (cf. document CDMC (2005) 11). The term of office of the new member of the Bureau, elected to replace Mr Simon (Romania), would run until the end of 2006. Only one candidate, Ms Delia MUCICĂ (Romania), was nominated (by Austria); the nomination was seconded by five other delegations (Denmark, Finland, Germany, Slovenia and Turkey). Ms Mucica was unanimously elected member of the Bureau.

Item 18 of the agenda: Meeting report and list of decisions

88. The CDMC decided to adopt the meeting report and list of decisions subject to comments and proposals for amendments to be submitted by experts by 28 June 2005 and to a final review by the Chairperson. Given that none of its contents needs to be treated as being confidential, the meeting report should be placed on the Media Division's website as soon as it is finalised.

APPENDIX I**LIST OF PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****Albania/Albanie**

[not represented/non représenté]

Andorra/Andorre

[not represented/non représenté]

Armenia/Arménie

M. Hamlet GASPARIAN, Directeur du Département de la Presse et de l'Information, Ministère des Affaires étrangères, YEREVAN

Austria/Autriche

Mr Matthias TRAIMER, Director of the Department of Media Affairs, Bundeskanzleramt-Verfassungsdienst, Medienangelegenheiten, VIENNA

Mr Andreas ULRICH, Bundeskanzleramt-Verfassungsdienst, Medienangelegenheiten, VIENNA

Azerbaijan/Azerbaïdjan

Mr Nazim ISAYEV, Deputy Head of social-political issues Division, Executive Office of the President of the Republic of Azerbaijan, BAKU

Belgium/Belgique

M. Eric FRANSSSEN, Attaché au Service Général de l'Audiovisuel et des Multimédias, Ministère de la Communauté française de Belgique, BRUXELLES

Mr Marc CHATELET, Deputy to the Director, Administratie Media, Section Media et Film, Ministerie van de Vlaamse Gemeenschap, BRUSSEL

Bosnia and Herzegovina/Bosnie et Herzégovine

Ms Dunja MIJATOVIC, Director of Broadcasting, Communications Regulatory Agency, SARAJEVO

Ms Amelia ODOBASIC, Head of Public Affairs, Communications Regulatory Agency, SARAJEVO

Bulgaria/Bulgarie

Mlle Zornitza ANGUELOVA, Expert supérieur, Division « Développement de la Société de l'Information », Ministère du Transport et des Communications, SOFIA

Ms Bissera ZANKOVA, Media expert, Consultant at the Ministry, Ministry of Transport and Communications, SOFIA

Croatia/Croatie

Ms Ivana MORIĆ, Minister Plenipotentiary, Department for Regional Organizations, Ministry of Foreign Affairs and European Integration, ZAGREB

Cyprus/Chypre

Mr Andreas CHRISTODOULOU, Head of Media Section, Ministry of the Interior, NICOSIA

Mr Neophytos EPAMINONDAS, Director, Cyprus Radiotelevision Authority, NICOSIA

Czech Republic/République Tchèque

Mr Artuš REJENT, Media Department, Ministry of Culture, PRAGUE

Denmark/Danemark

Ms Pernille RAHBEK, Head of Section, Ministry of Culture, COPENHAGEN

Estonia/Estonie

Mr Peeter SOOKRUUS, Head of Media and Copyright Department, Ministry of Culture, TALLINN

Finland/Finlande

Ms Kristina HAUTALA-KAJOS, Cultural Counsellor, Ministry of Education and Culture, HELSINKI

Ms Aleksandra PARTANEN, Ministry of Transport and Communications Finland, HELSINKI

France

Mme Martine COQUET, Chef du bureau des affaires juridiques et multilatérales, Direction de l'audiovisuel extérieur et des techniques de communication (DGCID/DAE), Ministère des Affaires Etrangères, PARIS

M. Frédéric DEROIN, Adjoint au chef du bureau des affaires européennes et internationales, Service du Premier ministre, Direction du développement des médias, PARIS

Georgia/Géorgie

Mrs Elene MARCHILASHVILI, Deputy Director of International Law Department, Ministry of Foreign Affairs, TBILISI

Germany/Allemagne

Mr Bernd MÖWES, Head of Division "International Media Cooperation", Federal Government Commissioner for Culture and the Media (BKM), BERLIN

Greece/Grèce

Mme Maria GIANNAKAKI, Press Attaché, Secrétariat Général pour la Communication, Secrétariat Général pour l'Information, ATHENES

Hungary/Hongrie

Mr György OCSKÓ, Head of Presidential Secretariat, National Radio and Television Commission (ORTT), BUDAPEST

Iceland/Islande

Ms Áslaug Dóra EYJÓLFSDÓTTIR, Adviser, Office of cultural affairs, Ministry of Education, Science and Culture, REYKJAVIK

[apologised for absence/excusée]

Ireland/Irlande

Mr John LARKIN, Assistant Principal, Broadcasting Policy Division, Department of Communications, Marine and Natural Resources, DUBLIN

[apologised for absence/excusé]

Italy/Italie

[not represented/non représenté]

Latvia/Lettonie

Mr Andris MELLAKAULS, Head of International Relations, National Broadcasting Council, RIGA

Liechtenstein

Not represented/non représenté

Lithuania/Lituanie

Mr Rolandas KVIETKAUSKAS, Undersecretary, Ministry of Culture, VILNIUS

Luxembourg

Not represented/non représenté

Malta/Malte

[apologised for absence/excusé]

Moldova

M. Iurie VITON, Deputy Head of Mass Media Division, Ministry of Foreign Affairs, Ministerul Afacerilor Externe, CHISINAU

Monaco

[not represented/non représenté]

Netherlands/Pays-Bas

Ms Saskia WELSCHEN, Policy Adviser Media, Department for Media, Literature and Libraries (MLB), Ministry of Education, Culture and Science, DEN HAAG

Norway/Norvège

Mr Olav GUNTVEDT, Assistant Director General, Norwegian Ministry of Culture and Church Affairs, Department of Media and Copyright, OSLO

[apologised for absence/excusé]

Poland/Pologne

Mr Karol JAKUBOWICZ, Chairperson of the CDMC/Président du CDMC, Expert, National Broadcasting Council, WARSAW

Portugal

M. Sérgio GOMES SILVA, Instituto da Comunicação social, LISBOA

Romania/Roumanie

Mme Delia MUCICĂ, Secrétaire Général, Ministère de la Culture et des Cultes, BUCUREȘTI

Mlle Elly-Ana TÂRNĂCOP-MOGA, Conseillère d'intégration européenne, Ministère de la Culture et des Cultes, BUCUREȘTI

Russian Federation/Fédération de Russie

Mr Boris N. MALAKHOV, Deputy Director, Information and Press Department, Ministry of Foreign Affairs, MOSCOW

Mr Nadjaf ABDULLAEV, Head of Division, Press and Information Department, Foreign Ministry of the Russian Federation, MOSCOW

San Marino/Saint Marin

M. Nicola CECCAROLI, Segretario Particolare, Segretaria di Stato per gli Affari Esteri e Politici della Repubblica di San Marino, SAN MARINO

Serbia and Montenegro / Serbie et Monténégro

Mrs Milka TADIC-MIJOVIC, Editor of the weekly "Monitor" Magazine, Nedeljnik MONITOR, PODGORICA

Slovakia/Slovaquie

Mr Željko SAMPOR, Media and Copyright Division, Ministry of Culture, BRATISLAVA

Slovenia/Slovénie

Mr Sašo GAZDIĆ, Secretary of the Media Directorate, Ministry of Culture, LJUBLJANA

Spain/Espagne

Ms Maria Luisa GIL FERRER, Head of Area, Subdirección General de Medios Audiovisuales, Ministry of Industry, Tourism and Commerce, MADRID

Sweden/Suède

Ms Karin LIBY, Media Division, Ministry of Culture, STOCKHOLM

Switzerland/Suisse

M. Frédéric RIEHL, Directeur, Division des Affaires internationales, Office fédéral de la communication, Département fédéral de l'environnement, des transports, de l'énergie et de la communication, BIENNE

M. Pierre SMOLIK, Division des Affaires internationales, Office fédéral de la communication, Département fédéral de l'environnement, des transports, de l'énergie et de la communication, BIENNE

"The former Yugoslav Republic of Macedonia"/"L'ex-République Yougoslave de Macédoine"

Ms Vesna POPOSKA, Agency of Information, SKOPJE

Turkey/Turquie

Mrs Şebnem BİLGET, Head of International Relations Department, Radio and Television Supreme Council, ANKARA

Mrs Belma ÖRS, Media Expert, Radio and Television Supreme Council, ANKARA

Ukraine

Ms Maryna ZLOBINA, Responsible for the Human Rights in Information Society Direction, Ministry of Foreign Affairs of Ukraine, KYIV

United Kingdom/Royaume-Uni

Mr Chris BONE, Head of International Broadcasting, Department for Culture, Media and Sport, LONDON

Mr Christopher DAWES, Deputy Head of Broadcasting Policy Division, Department for Culture, Media and Sport, LONDON

OTHER PARTICIPANTS / AUTRES PARTICIPANTS

Parliamentary Assembly / Assemblée Parlementaire

Mr Jerzy JASKIERNIA, 1st Vice-Chairperson, Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe

Mr Robert WALTER, Chairperson, Media Sub-Committee, Committee on Culture Science and Education, Parliamentary Assembly of the Council of Europe

Congress of Local and Regional Authorities of the Council of Europe / Congrès des Pouvoirs Locaux et Régionaux du Conseil de l'Europe l'Europe

Mr Oscar ALARCON, Assistant to the Secretary of the Chamber of Local Authorities, Secretariat of the Congress of Local and Regional Authorities of the Council of Europe

European Commission/Commission européenne

Mr Harald Ernst TRETENBREIN, Head of Sector, DG Information Society and Media, A1, Audiovisual Policy Unit, European Commission, BRUSSELS

OBSERVERS /OBSERVATEURS

Belarus

Mme Maria M. VANSHINA, Chef du Service de Presse, Département de l'information, Ministère des affaires étrangères, MINSK

Canada

[not represented/non représenté]

Holy See/Saint-Siège

Mr Thaddeus JONES, Pontifical Council for Social Communication, VATICAN CITY

Japan/Japon

Mr Naoyuki IWAI, Consul (Attorney), Consulate General of Japan, STRASBOURG

Mexico/Mexique

[not represented/non représenté]

United States of America/Etats-Unis d'Amérique

[not represented/non représentés]

Nordic Council of Ministers/Conseil nordique des Ministres

[not represented/non représenté]

Organisation for Security and Co-operation in Europe (OSCE) / Organisation pour la Sécurité et la Coopération en Europe (OSCE)

Mr Alexander IVANKO, Senior Advisor, Office of the OSCE Representative on Freedom of the Media, VIENNA

Mr Roland BLESS, Senior Advisor, Office of the OSCE Representative on Freedom of the Media, VIENNA

Association of Commercial Television in Europe (ACT) / Association des Télévisions Commerciales Européennes (ACT)

Ms Petra WIKSTRÖM-VAN EEMEREN, Head of European Affairs, ACT, BRUSSELS

European Audiovisual Observatory / Observatoire européen de l'audiovisuel

Mr Wolfgang CLOSS, Executive Director, European Audiovisual Observatory, STRASBOURG

Mr André LANGE, Head of Markets and Financing Department, European Audiovisual Observatory, STRASBOURG

Mrs Susanne NIKOLTCHEV, Head of Department of Legal Information, European Audiovisual Observatory, STRASBOURG

European Broadcasting Union / Union Européenne de Radio-Télévision

Mr Michael WAGNER, Directeur adjoint, Département des Affaires juridiques, Union Européenne de Radio-Télévision, GRAND-SACONNEX GE

Mr Heijo RUIJSENAARS, Conseiller juridique, Département des Affaires juridiques, Union Européenne de Radio-Télévision, GRAND-SACONNEX GE

European Federation of Journalists / Fédération européenne des Journalistes

[not represented/non représentée]

European Newspaper Publishers' Association / Association européenne des éditeurs de journaux

Mr Peter HULTENGÅRG, Legal Advisor, European Newspaper Publishers', Association – ENPA, BRUSSELS

EuroISPA

[not represented/non représenté]

GUEST SPEAKERS/ORATEURS INVITES

Prof. Dr. Thomas DREIER, M.C.J., Director, Institute for Information Law, University of Karlsruhe, Germany

Mme Meryem MARZOUKI, EDRI, PARIS, France

Mr Gabriel NISSIM, President of the Human Rights Grouping, SIGNIS (World Catholic Association for Communication), France

Mr Peter NOORLANDER, Legal Officer, Article 19, LONDON, United Kingdom

Mr Riza TÜRMEEN, Judge, European Court of Human Rights, STRASBOURG, France

SECRETARIAT

Mr Jan MALINOWSKI, Head of Media Division, Secretary of the CDMC, Directorate General of Human Rights - DG II/ Chef de la Division Médias, Secrétaire du CDMC, Direction Générale des Droits de l'Homme - DG II

Ms Charlotte de BROUDELLES, Administrative Officer, Secretary of the MM-S-MD and Co-Secretary of the T-TT, Directorate General of Human Rights - DG II / Administratrice, Secrétaire du MM-S-MD et Co-Secrétaire du T-TT, Direction Générale des Droits de l'Homme - DG II

Mr Eugen CIBOTARU, Administrative Officer, Secretary of the MM-S-PSB and of the MM-WG-EX, Directorate General of Human Rights - DG II / Administrateur, Secrétaire du MM-S-PSB et du MM-WG-EX, Direction Générale des Droits de l'Homme - DG II

Mr Lee HIBBARD, Administrative Officer, Secretary of the MM-S-IS, Directorate General of Human Rights - DG II/ Administrateur, Secrétaire du MM-S-IS, Direction Générale des Droits de l'Homme - DG II

Mr Ivan NIKOLTCHEV, Media Division, Secretary of the MM-S-IC, Directorate General of Human Rights - DG II / Division Médias, Secrétaire du MM-S-IC, Direction Générale des Droits de l'Homme - DG II

Ms Lindsay YOUNGS, Media Division, Co-Secretary of the MM-S-IC, Media Division, Directorate General of Human Rights – DGII / Division Médias, Co-Secrétaire du MM-S-IC, Division Médias, Direction Générale des Droits de l'Homme - DG II

Ms Franziska KLOPFER, Media Division, Directorate General of Human Rights - DGII /
Division Médias, Direction Générale des Droits de l'Homme - DG II

Mr Giedrius KADZIAUSKAS, Media Division, Directorate General of Human Rights - DGII /
Division Médias, Direction Générale des Droits de l'Homme - DG II

Mr Michael REMMERT, Project Manager, "Good Governance in the Information Society",
Directorate General of Political Affairs / Chef de Projet, "Bonne gouvernance dans la société
de l'information", Direction Générale des Affaires Politiques

Mr Adrian TUDORICA, Department for the Execution of Judgments of the European Court
of Human Rights, Directorate General of Human Rights – DGII/ Service de l'Execution des
Arrêts de la Cour Européenne des Droits de l'Homme, Direction Générale des Droits de
l'Homme - DGII

Interpreters/Interprètes

Mme Rebecca BOWEN

Mme Jennifer GRIFFITH

Mr Olivier OBRECHT

Mme Monique PALMIER

APPENDIX II**AGENDA**

- 1. Opening of the meeting**
- 2. Adoption of the agenda**
- 3. Decisions of the Committee of Ministers of interest to the work of the CDMC**
- 4. Future work of the CDMC (2005 to 2008)**
 - a. Feedback from non-governmental organisations on the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)
 - b. Texts adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)
 - c. Texts adopted at the Third Summit of Council of Europe Heads of State and Government (Warsaw, 16 and 17 May 2005)
 - d. Terms of reference of the CDMC
- 5. Working methods of the CDMC**
- 6. Draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired**
- 7. Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation**
- 8. European Convention on Transfrontier Television**
- 9. European Convention on the legal protection of services based on, or consisting of, conditional access**
- 10. Exchange of views on copyright in the context of the work of the CDMC**

11. Draft Recommendation on ways of improving the relationships between health authorities and the media

12. Work of the CDMC's subordinate bodies

- a. Group of Specialists on freedom of expression and information in times of crisis (MM-S-IC)
- b. Group of Specialists on human rights in the Information Society (MM-S-IS)
 - (i) work of the MM-S-IS
 - (ii) request for observer status by the non-governmental organisation European Digital Rights (EDRI)
- c. Group of Specialists on media diversity (MM-S-MD)
- d. Group of Specialists on public service broadcasting in the Information Society (MM-S-PSB)

13. Information on the work of other Council of Europe bodies of interest to the work of the CDMC

- a. Parliamentary Assembly of the Council of Europe
- b. Congress of Local and Regional Authorities of the Council of Europe
- c. Steering Committee for Human Rights (CDDH)
- d. Consultative Council of Judges (CCJE)
- e. Multidisciplinary ad hoc Committee of Experts on the Information Society (CAHSI)

14. Other information of interest to the work of the CDMC

- a. Report on the Luxembourg Presidency of the European Union
- b. Tunis phase of the World Summit on the Information Society (WSIS)

15. Dates of forthcoming meetings

16. Items to be included on the agenda of the 2nd meeting of the CDMC

17. Other business

18. Meeting report and list of decisions

APPENDIX III**LIST OF DOCUMENTS****Items 1 and 2 Opening of the meeting and adoption of the agenda**

- Draft agenda (CDMC (2005) OJ1)
- Notes on the draft agenda (CDMC (2005) OJ1 notes rev)
- Draft order of business (CDMC (2005) OT1)
- Bureau meeting of 19 and 20 May, meeting report (CDMC-BU (2005) 1)

Item 3 Decisions of the Committee of Ministers of interest to the work of the CDMC

- Report of the 64th meeting of the CDMM (CDMM (2005) 8)
- Secretariat report on the 7th European Ministerial Conference on Mass Media Policy (CDMM (2005) 9 rev)
- Press coverage of the Ministerial Conference and fringe events (CDMM (2005) 10)
- Declaration of the Committee of Ministers on human rights and the rule of law in the Information Society (CM (2005) 56 final)

Item 4 Future work of the CDMC (2005 to 2008)

- a. Feedback from non-governmental organisations on the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)**
- b. Texts adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005)**
 - Texts adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005) (MCM (2005) 5)
 - 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005). Elements of the Action Plan not covered by the terms of reference of the four Groups of Specialists (CDMC (2005) 6)
- c. Texts adopted at the Third Summit of Council of Europe Heads of State and Government (Warsaw, 16 and 17 May 2005)**
 - Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), Warsaw Declaration. (CM (2005) 79 final)
 - Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 16-17 May 2005), Action Plan (CM (2005) 80 final)

d. Terms of reference of the CDMC

- Revised terms of reference approved by the Committee of Ministers on 11 May 2005 (CDMC (2005) 1)

Item 5 Working methods of the CDMC

- Working methods of the CDMC and its subordinate bodies (CDMC (2005) 4)
- Classification and publication of the meeting reports of the CDMC and its subordinate bodies (CDMC (2005) 5)

Item 6 Draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired

- Report of the ad hoc working Group on exclusive rights and the right of the public to information (MM-WG-EX (2005) 4)
- Draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired and Explanatory Memorandum (CDMC (2005) 8)

Item 7 Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation

- Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation (CDMC (2005) 7 prov)

Item 8 European Convention on Transfrontier Television

- The revised European Convention on Transfrontier Television and its Explanatory Report (T-TT (2000) 8)
- Report of the 38th meeting of the Standing Committee on Transfrontier Television (T-TT (2005) 2)
- Contributions on possible new issues to be addressed in the Convention transmitted by Delegations (T-TT (2005) 9)

Item 9 European Convention on the legal protection of services based on, or consisting of, conditional access

- European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access (ETS 178)

Item 10 Exchange of views on copyright in the context of the work of the CDMC

- Report on developments in international copyright law, with particular reference to new communication services and options to be followed by the CDMC and its subordinate bodies when considering copyright or other matters in respect of which copyright has an incidence Secretariat report, Document prepared by Prof. Dr. Thomas DREIER (CDMC (2005) 9)

Item 11 Draft Recommendation on ways of improving the relationships between health authorities and the media

- Draft Recommendation on the ways of improving the relationships between health authorities and the media (CDMC (2005) 2)

Item 12 Work of the CDMC's subordinate bodies**a. Group of Specialists on freedom of expression and information in times of crisis (MM-S-IC)**

- Report of the 1st meeting of the Group of Specialists on freedom of expression and information in times of crisis (MM-S-IC (2005) 4)

b. Group of Specialists on human rights in the Information Society (MM-S-IS)**(i) work of the MM-S-IS**

- Report of the 1st meeting of the Group of Specialists on Human Rights in the Information Society (MM-S-IS (2005) 6)

(ii) request for observer status by the non-governmental organisation European Digital Rights (EDRI)

- Request for observer status on the MM-S-IS submitted by European Digital Rights (EDRI) (CDMM (2005) 14 rev)

c. Group of Specialists on media diversity (MM-S-MD)

- Report of the 1st meeting of the Group of Specialists on Media Diversity (MM-S-MD (2005) 3)

d. Group of Specialists on public service broadcasting in the Information Society (MM-S-PSB)

- Report of the 1st meeting of the Group of Specialists on Public Service Broadcasting in the Information Society (MM-S-PSB (2005) 6)

Item 13 Information on the work of other Council of Europe bodies of interest to the work of the CDMC

a. Parliamentary Assembly of the Council of Europe

b. Congress of Local and Regional Authorities of the Council of Europe

c. Steering Committee for Human Rights (CDDH)

d. Consultative Council of Judges (CCJE)

- “Justice and the Media”, 2nd European Conference of Judges; Cracow, 25 and 26 April; information note by Mr Nicholas HOGSON (CDMC (2005) 3)

e. Multidisciplinary ad hoc Committee of Experts on the Information Society (CAHSI)

- Declaration of the Committee of Ministers on human rights and the rule of law in the Information Society (CM (2005) 56 final)

Item 14 Other information of interest to the work of the CDMC

a. Report on the Luxembourg Presidency of the European Union

b. Tunis phase of the World Summit on the Information Society (WSIS)

Item 15 Dates of forthcoming meetings

- Revised timetable of meetings of the CDMM and its subordinate bodies in 2005 (CDMM (2005) 11)

Item 16 Items to be included on the agenda of the 2nd meeting of the CDMC

- Draft agenda of the 2nd meeting of the CDMC (CDMC (2005) 10)

Item 17 Other business

Item 18 Meeting report and list of decisions

- 1st meeting of the CDMC, draft meeting report (CDMC (2005) 12)
- 1st meeting of the CDMC, list of decisions (CDMC (2005) 13)