



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 12 September 2007

CDMC(2007)009

**STEERING COMMITTEE ON
THE MEDIA AND NEW COMMUNICATION SERVICES**

(CDMC)

**5th meeting
12 to 15 June 2007**

Meeting Report

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

1. The Steering Committee on the Media and New Communication Services (CDMC) held its 5th meeting from 12 to 15 June 2007 in Strasbourg. The meeting was chaired by Mr Matthias TRAIMER (Austria).

The Chairperson opened the meeting and welcomed the participants, particularly those attending a CDMC meeting for the first time. The list of participants is set out in Appendix I. The CDMC adopted the agenda, as set out in Appendix II, and the order of business, as set out in document CDMC(2007)OT1.

2. Mr Jan KLEIJSSSEN, Director of Standard-Setting in the newly created Directorate General of Human Rights and Legal Affairs, briefly presented the new Directorate General.

He underlined the Secretary General's priority, in line with the decisions taken at the Warsaw Summit, to create synergies and improve efficiency, which explains the merger of the former Directorates General I (Legal Affairs) and II (Human Rights). The objective is to develop synergies within and across the different types of work, namely standard-setting, targeted assistance and monitoring. Mr Kleijssen also referred to possible future meetings of chairpersons of steering committees within the Standard-Setting Directorate and to the objective to share steering committees' best practices.

3. Mr Kleijssen asked for the CDMC's understanding in respect of the effects of recent staff changes within the Media and Information Society Division. In this context, he referred to the excellent quality of the staff serving the CDMC (illustrated by staff changes due to promotions or requests from other services for the transfer of highly competent staff) and to the efforts being made at all levels to minimise the impact of staff changes.

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

4. The CDMC took note of the decisions referred to in paragraph 4 of the notes to the meeting's agenda (CDMC(2007)OJ1notes) and of more recent decisions of the Committee of Ministers and, in light of the latter, it examined and adopted:

(a) comments on the Congress of Local and Regional Authorities of the Council of Europe Recommendation 211 (2007) on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons;

(b) comments on Parliamentary Assembly (PACE) Recommendation 1791 (2007) on the state of human rights and democracy in Europe (in part discussed also under item 8 (b) concerning the discussion of a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights);

(c) comments on PACE Recommendation 1792 (2007) on fair trial issues in criminal cases concerning espionage or divulging state secrets.

The comments as adopted are set out in Appendices III, IV and V. The CDMC also took note of the comments on PACE Recommendation 1789 (2007) on professional education and training of journalists (cf. Appendix VI), which had recently been finalised by e-mail exchange.

5. The CDMC welcomed the ad hoc terms of references given to it by the Committee of Ministers to examine and make recommendations on the operation and functioning of media complaints procedures and media complaints bodies established in member states, taking into account any difficulties faced by individuals and groups affected by statements in the media to obtain redress through these mechanisms.

It held a brief exchange on the output to be produced (e.g. a draft recommendation for adoption by the Committee of Ministers) and agreed that, resources permitting, a consultant be retained to elaborate a preparatory document on the subject. Preferably, the preparatory document should be ready for consideration by the Bureau during its next meeting (to be held on 18 and 19 October 2007) with a view to the CDMC examining the matter at its 6th meeting (to be held from 27 to 30 November 2007).

4. Follow-up to the monitoring procedure of the Committee of Ministers on freedom of expression and information

6. The CDMC noted the Bureau's view that, at present, no further action is required on this item in light of the Committee of Ministers instructions (of 24 November 2004) and the answers provided by the Steering Committee (reply on 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; declaration on protecting the role of the media in democracy in the context of media concentration; recommendation on media pluralism and diversity of media content; declaration on the guarantee of the independence of public service broadcasting).

7. The observer organisation Article 19 expressed the view that the issue of defamation should be kept under review by the CDMC, albeit not necessarily focussing on the question of its decriminalisation.

The representative of Article 19 mentioned that defamation laws, whether criminal or civil, remain the biggest threat to freedom of expression. Approximately 80% of the cases on freedom of expression brought before the European Court of Human Rights concern defamation and, in most of those cases, a violation of Article 10 of the European Convention on Human Rights is found. Some important questions for journalists' everyday work have still to be addressed (what is defamatory, what can journalists get wrong, what can they be punished for and the proportionality of awards/sanctions). The representative of Article 19 also signalled the desirability to develop in detail the general principles set out in the Committee of Ministers 2004 Declaration on freedom of political debate in the media.

8. The remarks made by certain delegations acknowledged the possibility of tension or conflict between freedom of expression and other rights, in particular personality rights, something that is addressed in a number of texts, more recently in the draft guidelines on protecting freedom of expression and information in times of crisis and in the draft declaration on the protection and promotion of investigative journalism.

9. The CDMC did not exclude the possibility of pursuing examination of the subject of defamation, in particular if, as expected, PACE adopts a text signalling the need to move towards decriminalisation of defamation or in light of further submissions made by CDMC delegations and/or observers to the CDMC.

5. Work programme for the CDMC in 2007

10. The CDMC took note of the work plans of its groups of specialists, which provide an indication of a number of issues to be examined by the Steering Committee in 2007 (and 2008). The CDMC agreed with the Bureau that there is a risk of facing unduly heavy agendas at one or both of the CDMC meetings in 2008 and made its own the Bureau's request that, to the extent possible, groups of specialists spread out evenly over 2007 and 2008 their output requiring CDMC consideration and possible transmission to the Committee of Ministers. See also item 11 below as regards the preparation of the First Ministerial Conference on Media and New Communication Services.

6. Working methods of the CDMC

11. The CDMC decided not to include this item systematically on the agenda of future meetings; it suffices to discuss working methods in the context of specific issues or needs, at this meeting as regards the question of visibility.

(a) Promoting visibility of the work of the CDMC

12. The CDMC decided to pursue the discussion of this item during its 6th meeting. It encouraged certain delegations and observers that expressed an interest on the subject (Austria, Denmark, the European Broadcasting Union and the Conference of International Non-Governmental Organisations of the Council of Europe) to pursue informal exchanges on the subject with a view to presenting their thoughts or proposal to the CDMC.

13. The CDMC also held an exchange of views with Ms Louise ANSARI, Deputy Director of Communication of the Council of Europe. Ms Ansari explained certain aspects of the communication deficit of the Council of Europe, which results inter alia from the variety of the Organisation's fields of work and its specialisation. She underlined the need for prioritisation to ensure the receptiveness of messages (e.g. more than 400 press releases had been issued since the beginning of 2007), for using an array of means to bring information to interested parties (e.g. the World Press Freedom Day questions and answers page on media in times of crisis to be turned into an ongoing discussion forum), for developing partnerships (e.g. governments or non-governmental organisations disseminating Council of Europe related information or their websites providing links to Council of Europe pages). Ms Ansari also mentioned initiatives being taken in respect of the Council of Europe participation in the next Internet Governance Forum (e.g. well-known journalists to moderate Council of Europe side events, production of a CD-Rom with documents and other material, including interviews).

14. The CDMC discussed:

(i) strategies at the Council of Europe Secretariat level, including as regards the use being made and potential of the Internet – information on the CDMC work and related Council of Europe standards should be made simple and understandable for the general public; first access page should be simple and its content easy to apprehend; better referencing;

(ii) measures at member state level – links to Council of Europe pages are already made available in certain ministries' websites; relevant authorities could be encouraged to mention

in the preamble to legal texts the Council of Europe standard-setting instruments from which inspiration was drawn or which are implemented in the piece of legislation concerned (and provide feedback to the Council of Europe);

(iii) the potential contribution of civil society organisations and, more particularly, CDMC and groups of specialists' observers – observer organisations sometimes refer to Council of Europe standards in the context of their own work and disseminate specific texts (particular reference was made to Recommendation (2007)2 to be published shortly by the European Broadcasting Union with an introduction by former CDMC chairperson Mr Karol Jakubowicz).

15. Without prejudice to discussing these matters further, the CDMC agreed that the examples of good practice mentioned under (ii) and (iii) above could usefully be taken up by other member states and observer organisations.

7. Draft instruments or texts submitted by the Groups of Specialists for consideration by the CDMC

- (a) Draft guidelines on protecting freedom of expression and information in times of crisis**
- (b) Draft declaration on the protection and promotion of investigative journalism**
- (c) Draft recommendation on promoting freedom of expression and information in the new information and communications environment**
- (d) Draft recommendation updating Recommendation No. R (99)15 on media coverage of election campaigns, taking account of the development of digital broadcasting services, on-line media and other electronic communication platforms**

16. The CDMC approved, subject to certain changes, the four draft texts submitted to it respectively by the Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC) (listed (a) and (b) above) and by the Group of Specialists on human rights in the Information Society (MC-S-IS) (listed (c) and (d) above). It decided to submit those texts to the Committee of Ministers for consideration and possible adoption, and also to invite the Committee of Ministers to take note of the explanatory memorandum to the draft recommendation on media coverage of election campaigns, taking account of developments in the media and information and communication environments.

The CDMC underlined the importance of these texts and expressed their gratitude to the groups of specialists for their timely preparation.

- (e) Report on the implementation of 2003 Declaration on freedom of communication on the Internet by the member States**

17. The CDMC approved a report on the implementation of 2003 Declaration on freedom of communication on the Internet prepared by the MC-S-IS and decided to inform the

Committee of Ministers of the conclusions of that report, namely that, in light of the responses provided by sixteen member states to a questionnaire on the subject, in those countries there appears to be general adherence to the provisions of the Declaration.

18. Having regard to the message of the Committee of Ministers to Committees involved in intergovernmental cooperation (CM(2005)145 revised), the CDMC noted that the action under this item, sub-items (a) to (e), contributes to the implementation of the Action Plan adopted by the Third Summit of Heads of State and Government of the Council of Europe, in particular Part I, Section 3, and Part II, Section 5. It recalled that the Action Plan adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, March 2005), was incorporated in its entirety into the Summit Action Plan.

8. Implementation of Council of Europe standards on media and freedom of expression

(a) Implementation of non-binding instruments prepared under the authority of the CDMC

19. As proposed by the Bureau, the CDMC decided to postpone consideration of this point.

More particularly, it noted that the Secretariat had not been able to finalise the overview of the implementation of Recommendation (2000) 23 of the Committee of Ministers on the independence and functioning of regulatory authorities in the broadcasting field, and asked the Bureau to examine the overview at its next meeting with a view to submitting concrete proposals for adoption at the November 2007 CDMC meeting.

If it is justified by the overview, this could involve a draft Committee of Ministers' declaration on the subject, comparable to that prepared in respect of Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting and which was adopted by the Committee of Ministers on 27 September 2006.

(b) Discussion of a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights

20. The CDMC decided to pursue at its next meeting the discussion on the desirability to create a specific mechanism tasked with the mandate to monitor the situation of freedom of expression and of the media in Council of Europe member states and to suggest measures to remedy shortcomings identified, as called for by the Parliamentary Assembly (cf. paragraph 19 of PACE Recommendations 1791 (2007) on the state of human rights and democracy in Europe and paragraph 2.4. of Recommendation 1783 (2007) on threats to the lives and freedom of expression of journalists).

This is a complex issue that requires further careful analysis, in respect of which the CDMC has not, at this stage, come to a conclusion. Some form of monitoring is considered desirable. However, only a few delegations expressed a clear position (some in favour, but others against)¹, with many delegations raising the question of possible overlap or duplication with

¹ CDMC members were invited to answer the following questions:

1. With reference to paragraph 8 of the expanded discussion paper, should a mechanism for protecting and promoting freedom of expression and information and freedom of the media be established by means of a

other bodies (e.g. the Commissioner for Human Rights, OSCE Representative on Freedom of the Media). Nonetheless, the CDMC noted that there is also scope for complementarity and synergies (as already happens with existing mechanisms). The question of budgetary implications of such a mechanism was also raised.

21. The CDMC agreed to set up an informal working group to examine in further depth the issues raised during the discussion. Although its composition was left open and flexible, it was agreed that the group should be chaired by Ms Delia MUCICĂ and that it should include both CDMC members that have raised significant questions in respect of the creation of a mechanism as well as CDMC members that support this possibility. The group should also examine the responses from national authorities as to whether they would in principle support the creation of such a mechanism (cf. footnote 3). It was agreed that responses should be

Council of Europe convention (open to ratification by member states at their own discretion, and possibly by other countries that are not members of the Council of Europe) or, for example, a resolution of the Committee of Ministers (covering from the outset all Council of Europe member states, but limited to those states)?

2. With reference inter alia to paragraphs 9 to 12 of the expanded discussion paper, should the relevant instrument (convention or resolution) focus on creating a mechanism and providing it with an operational framework for promoting in practical and concrete terms respect of Article 10 of the European Convention on Human Rights and the related case law of the European Court of Human Rights, or is there a need to develop additional binding standards in respect of freedom of expression and information and freedom of the media?

3. With reference to paragraphs 13 to 15 and 17 to 19 of the expanded discussion paper, should professionalism, independence and impartiality of the mechanism and of its members be seen as a priority?

4. With reference to paragraph 16 of the expanded discussion paper, should the mechanism's composition be limited in number or should it have one member in respect of each state party (if the mechanism is created by means of a convention) or in respect of each Council of Europe member state (if the mechanism is created by means of a Committee of Ministers resolution)?

5. With reference to paragraph 20 et seq. of the expanded discussion paper:

a. should the mechanism engage in direct fact finding activities, in addition to examining information provided by states party / member states or base its work mostly, or exclusively, on information provided by the state?

b. should the mechanism review on a regular basis the situation in each state party / member state?

c. should the mechanism pay particular attention to, or focus exclusively on, situations where freedom of expression and information and freedom of the media are particularly at risk?

d. should the mechanism seek to give favourable response to state party / member state's requests for guidance on particular matters?

6. With reference to paragraph 26 of the expanded discussion paper, should the mechanism be entitled to have recourse to experts and should it accept expertise offered by states party / member states?

7. With reference to paragraphs 28 to 30 of the expanded discussion paper, should the work of the mechanism offer transparency, in particular by making its reports public upon adoption?

8. With reference to paragraph 33 of the expanded discussion paper, would there be added value in such a mechanism or would there be duplication, in particular with:

a. the European Court of Human Rights?

b. the Parliamentary Assembly monitoring?

c. the Committee of Ministers monitoring?

d. the powers of the Secretary General?

e. the Council of Europe Commissioner for Human Rights?

f. the Representative on Freedom of the Media of the OSCE?

9. Would enhancing the role and functions of another existing Council of Europe body (e.g. the Commissioner for Human Rights) provide a satisfactory response to the need to give effect in practice and to promote freedom of expression and information and freedom of the media standards, with particular reference to Article 10 of the European Convention on Human Rights and the related case law of the European Court of Human Rights?

10. To sum up and having regard to the answers provided to the above questions, would the competent authorities in your country in principle support the establishment of "a specific mechanism on freedom of expression and media tasked with the specific mandate to monitor the situation of freedom of expression and of the media in Council of Europe member states and to suggest corrective measures" as proposed by the Parliamentary Assembly of the Council of Europe?

submitted by 28 September 2007. The position expressed by other interested parties, including observers to the CDMC, should also be examined by the informal working group.

The informal working group was asked to report to the Bureau at its next meeting.

22. With a view to getting an insight into the work of existing Council of Europe monitoring mechanisms, during the meeting, the CDMC also held an exchange of views with Mr Trevor STEVENS, Executive Secretary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Ms Isil GACHET, Executive Secretary of the European Commission against Racism and Intolerance (ECRI), and Ms Artemiza-Tatiana CHISCA, from the Secretariat of the Advisory Committee of the Framework Convention on National Minorities, as well as Mr Hallvard GORSETH, from the Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings (under which GRETA will be set up).

It emerged from this exchange that existing mechanisms work in harmony with other Council of Europe bodies or institutions (e.g. European Court of Human Rights, Commissioner for Human Rights) and those of other international organisations sharing similar concerns (e.g. United Nations, OSCE, European Union, International Committee of the Red Cross). The secretariats of the Council of Europe mechanisms concerned highlighted the importance of adequate membership (independent and suitably qualified and experienced members, selected through rigorous and transparent procedures) and signalled certain advantages of limiting the number of members. They also underlined the importance of developing constructive relations with member states based on cooperation and partnership. One of the participants drew attention to the visibility offered by the work of the mechanism to the Council of Europe standards specific to its area of competence.

23. The CDMC also explored with Mr Marc SCHEUER, Director of the Office of the Commissioner for Human Rights and with Mr Erik FRIBERGH, Registrar of the European Court of Human Rights, the question of risks of overlap or interference and potential for complementarity with the work of the Commissioner and of the Court.

While he suggested caution when deciding to create a new mechanism, Mr Scheuer referred to the positive experience vis-à-vis existing mechanisms, which are complementary to and mutually reinforcing with the work of the Commissioner. He also evoked the possibility that the Commissioner pay added attention to the question of freedom of expression.

Mr Fribergh also referred to the mutually reinforcing nature of the work of, in particular, the CPT and that of the Court and to the usefulness for the Court of assessments made by the CPT's experts; he added that he would expect similar synergies with a specific mechanism for Article 10 of the European Convention on Human Rights. On condition that it is rigorous in avoiding the judicial domain, a mechanism which contributes to compliance with Article 10 would be welcome. However, he also observed that, if the mandate to be given is very narrow, it may be worthwhile considering the possibility of giving this role to an existing body or institution (such as the Commissioner for Human Rights).

24. The question of resources was not an issue before establishing the currently existing mechanisms (although a viability study was undertaken in the case of GRETA); the resources allocated to each of the mechanisms (and to the Commissioner for Human Rights) were very limited at the outset, but increased progressively as they rolled out their activities and

implemented their mandates. It was suggested that consideration be given to whether setting up a new mechanism, rather than reinforcing existing bodies or institutions, would be the best way to use Council of Europe limited resources.

The CDMC also heard that, arguably, the question of the desirability of establishing a specific mechanism designed to promote respect of Article 10 of the European Convention on Human Rights across Europe should be examined by the CDMC from the viewpoint of its own substantive work², leaving the question of resources and, of course, the final decision as to the actual creation of a specific mechanism to the Committee of Ministers and ultimately to Council of Europe member states.

9. Work of the CDMC's subordinate bodies

- (i) Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC)**
- (ii) Group of Specialists on media diversity (MC-S-MD)**
- (iii) Group of Specialists on public service media in the Information Society (MC-S-PSM)**
- (iv) Group of Specialists on human rights in the Information Society (MC-S-IS)**

25. The Chairperson informed the CDMC about the Bureau's exchange of views with Ms Zrinjka PERUSKO, Chairperson of the MC-S-MD, Mr Niklas KARLENDAL, Vice-Chairperson of the MC-S-IC, Mr Mark LENGYEL, Vice-Chairperson of the MC-S-PSM and Mr Thomas SCHNEIDER, Chairperson of the MC-S-IS, most notably that, on the whole, the groups are finding no problems or difficulties to implement their respective terms of reference, nor the need for significant clarification (see paragraph 2 of the report on the Bureau's May 2007 meeting).

The CDMC took note of progress being made by the groups to implement their terms of reference and of their work plans (cf. documents MC-S-IC(2007)001, MC-S-MD(2007)003, MC-S-PSM(2007)004 and MC-S-IS(2007)015) (see also paragraphs 12 to 16 of the report on the Bureau's May 2007 meeting).

26. It also noted additional information provided by the Secretariat, in particular as regards possible synergies between the MC-S-IC, the MC-S-MD and the MC-S-PSM inter alia on issues related to social cohesion and inter-cultural dialogue.

The CDMC also heard that the MC-S-IC will submit proposals on the items featuring in its terms of reference by the end of the year; with particular reference to journalists' education and training, the document prepared by the group has been the subject of positive comments (e.g. from INSI), although it has yet to be decided whether this matter will be dealt with in a

² According to paragraph 4 (i) of its terms of reference, the role of the CDMC is to pursue intergovernmental co-operation in the field of the media and new communication services "with a view to protecting, promoting and facilitating the exercise of human rights and fundamental freedoms, in particular freedom of expression and information in a pluralistic democratic society and the free flow of information and ideas across frontiers, and with a view to fostering a plurality of independent means of public communication which reflect a wide diversity of opinions and cultures and promoting intercultural dialogue".

strategy paper or a report. Consideration might already be given to extending the terms of reference of the MC-S-IC beyond the end of 2007 given that issues falling within the scope of its work continue to emerge.

The MC-S-MD and the MC-S-PSM are setting in motion various information gathering processes with a view to responding to their terms of reference, by means of questionnaires to members states and, resources permitting, by employing consultants.

10. Internet governance and implementation of the WSIS action lines

- (i) Contribution of the Council of Europe to the Internet Governance Forum (Rio de Janeiro, 12 to 15 November 2007)**
- (ii) Implementation of the World Summit on the Information Society action lines regarding the media (C9) and the ethical dimensions of the Information Society (C10)**

26. In view of the Council of Europe's active role in contributing to and participating in the follow-up work of the United Nations on the World Summit on the Information Society, the CDMC agreed to prepare a standard-setting document on the public service value of the Internet based on relevant Council of Europe standards and bearing in mind the evolving work of the Internet Governance Forum (IGF). This standard-setting document should be a key Council of Europe contribution to the 2nd IGF, to be held in Rio de Janeiro, Brazil, from 12 to 15 November 2007.

The CDMC held an exchange of views with former CDMC chairperson Mr Karol JAKUBOWICZ, acting in an independent expert capacity, on the possible structure and content of the above-mentioned standard-setting document. It agreed that, resources permitting, Mr Jakubowicz be asked to prepare a preliminary draft of the document in question.

A draft should be prepared by the end of September 2007, in time for submission to and adoption by the Committee of Ministers before the IGF.

27. The CDMC noted that the 2007 IGF is likely to include the same themes as the 2006 Forum (openness, security, access and diversity). It welcomed the work being carried out by the Secretariat with a view to contributing to the IGF process and to the follow up to the WSIS. In respect of the latter, it noted in particular that Messrs Karol JAKUBOWICZ and Christian S. NISSEN took part on behalf of the Council of Europe in an event on the public service value of the Internet and public service media, within the framework of Action line C9.

11. First European Ministerial Conference on the Media and New Communication Services (Reykjavik 2009)

28. The CDMC decided:

- (i) to accept the invitation of the Icelandic authorities to hold the First European Ministerial Conference on the Media and New Communication Services (Reykjavik), in the spring of 2009;

- (ii) to propose to the Icelandic authorities that the Ministerial Conference be held on Thursday 28 and Friday 29 May 2009; other possible dates discussed were Thursday 21 and Friday 22 May, but it was agreed that dates could be changed in case of need³;
- (iii) to propose to the Icelandic authorities that a final CDMC preparatory meeting be held in Reykjavik on the eve of the Ministerial Conference;
- (iv) to propose to the Icelandic authorities that a civil society or non-governmental organisations' forum be held in Reykjavik on the eve of the CDMC preparatory meeting.

29. The CDMC noted the Bureau's thoughts on the format of the Ministerial Conference and on possible themes (see paragraphs 26 and 27 of the report on the Bureau's last meeting) and held a preliminary discussion on the subject. The objective of the conference should be to adopt a clear, pertinent and workable action plan for the following years, addressing emerging issues and current concerns.

There was general agreement that real debate among participating ministers would be desirable; this could be achieved by means, for example, of thematic round tables, each involving a limited number of panellist ministers, with all ministers and other participants invited to take part in discussions. A plenary session should, on the other hand, offer a possibility to all ministers to address the conference.

30. A recurring theme during the CDMC's exchange concerned human dignity and the ethical dimension. Other topics discussed related to other ongoing concerns, such as concentration and diversity (including the subject of third sector media), public service (including in respect of e-inclusion and access for all), threats (to freedom of expression, dignity, privacy) and opportunities (in respect of literacy, including as an alternative to regulation, and intercultural dialogue), and to changing paradigms in the real and virtual dimensions of the information and communications environment.

It was also suggested that the Ministerial Conference could be an opportunity to take stock of progress, perspectives and impact of the switchover from analogue to digital broadcasting, and also to pay tribute to journalists, both in terms of their positive contribution to freedom of expression and information and, hence, to democracy, and also as victims.

The CDMC also confirmed the Bureau's view that it is necessary to remain attentive to Council of Europe priorities generally and those signalled by the Parliamentary Assembly of the Council of Europe (PACE). Reference was also made in this context to the desirability of rendering Council of Europe standards concerning freedom of expression and information and freedom of the media fully effective in practice.

31. The CDMC agreed that, by 28 September 2007, members provide further comments on the format (including whether relevant ministers or ministries would consider acceptable for the Ministerial Conference to be organised around two or three round tables plus a plenary session that would, in particular, permit the adoption of specific texts) and possible themes for

³ Following the meeting, the Secretariat was informed of a meeting of the European Union Council for Education, Youth and Culture (involving ministers competent in the areas of work of the CDMC) is planned for 25 and 26 May 2009.

the conference. It was also suggested that, at the next CDMC meeting, specific delegations should be prepared to assume work on specific themes with a view to facilitating preparation in due course of texts to be adopted at the 2009 Reykjavik Ministerial Conference.

12. Intercultural Dialogue

32. The CDMC took note of information on this subject provided by members and the Secretariat, including the Secretariat of the Steering Committee for Human Rights (CDDH). In particular, it thanked Ms Bissera ZANKOVA for her participation in and reports on various related meeting (Committee of Experts for the Development of Human Rights (DH-DEV) meeting of 7 to 9 February 2007; CDDH meeting of 11 April 2007; Conference on the Religious Dimension of Intercultural Dialogue, San Marino, 23 and 24 April 2007).

There seemed to be broad consensus that intercultural dialogue and the role of media is a matter of ongoing interest and that preserving freedom of expression and freedom of the media in this context should remain a constant concern. The CDMC invited Ms Zankova, in consultation with interested delegations (e.g. Turkey), to make concrete proposals as to further action that might be taken by the Steering Committee in this area, including in respect of the Alliance of Civilisations.

13. Standing Committee on Transfrontier Television (T-TT)

33. The Secretariat reported on progress being made by the drafting group of the T-TT in the revision of the Convention, having regard to the objective of keeping, to the extent necessary and possible, the text of the Convention in line with the draft European Union Directive on audiovisual media services.

Certain CDMC members underlined the need to bear in mind that the Directive is inscribed in the broader framework of European Union legislation, absent in the case of the Council of Europe Convention. In consequence, the latter is neither complemented nor subject to the constraints of the broader framework of European Union legislation.

Further, the CDMC expressed the view that it would be desirable that the revision of the Council of Europe Convention be accorded priority (including, in budgetary terms) in order to shorten as much as possible the time between the implementation of the corresponding European Union Directive and the entry into force of the revised Convention.

14. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to 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)**
 - Group of Specialists on access to official information**
 - Committee of Experts for the Development of Human Rights**
 - Committee of Experts on Issues relating to the Protection of National Minorities**

- d. Consultative Council of European Judges (CCJE)**
- e. European Commission Against Racism and Intolerance (ECRI)**
- f. Ad hoc Committee on e-democracy (CAHDE)**
- g. Steering Committee for Culture (CD-CULT)**
- h. Steering Committee of Education (CD-ED)**

34. The CDMC took note of information provided on the work of, and co-operation with, other Council of Europe bodies, in particular as regards progress on the preparation of a Council of Europe convention on access to official documents (by DH-S-AC under the authority of the CDDH), on e-democracy (by CAHDE), on cybercrime (T-CY) and on media literacy. As regards the latter, the CDMC welcomed the proposed initiative to set up a working group, in which both the CDMC and CD-EC would be represented), bringing together media and education specialists with a view to making concrete proposals on the subject. It decided that cooperation in this area should be pursued.

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

(a) Report on the German Presidency of the European Union

35. The delegate from Germany provided information on the Germany Presidency of the European Union, with particular reference to progress made in respect of the draft Directive on audiovisual media services, with its adoption by the European Parliament foreseen on 27 or 28 September 2007 and entry into force by the end of the year.

He also informed the CDMC of a Conference, organised in Leipzig from 9 to 11 May 2007 as part of the activities of the German Presidency, under the title “More trust in content – the potential of co- and self-regulation in the digital media” which inter alia addressed the issues of content suitable for children, media literacy and reliability of content in the Internet.

16. Administrative and budgetary matters

36. The Secretariat informed the CDMC of a number of staff changes which had taken place within the Media and Information Society Division (cf. also paragraph 3 above) and that the budget for CDMC related activities in 2007 was comparable to that of 2006.

17. Dates of the next meeting

37. The CDMC took note of the dates of its 6th meeting (27 to 30 November 2007) and of the timetable for the remaining meetings of its subordinate bodies and the T-TT in 2007 (cf. document CDMC(2006)018rev).

18. Items to be included on the agenda of the 6th meeting of the CDMC

38. The CDMC considered and approved the list of items to be included in the agenda for its 6th meeting (cf. document CDMC(2007)007).

19. Other business

39. Under this item, CDMC members took note that, following the administrative reorganisation of the Secretariat and the creating of the Directorate General of Human Rights and Legal Affairs, the European Audiovisual Observatory is now in the Directorate General of Education, Culture and Heritage, Youth and Sport (Directorate General IV). Several CDMC members expressed their concern regarding the lack of transparency of the decision concerning this arrangement. In seeking to understand the reasons for this decision, the CDMC asked the Secretariat for additional information regarding the reasons for this move.

In response, the Secretariat informed the CDMC that this action, which has been approved by the Committee of Ministers, is part of the response to the Warsaw Action Plan's decision that fresh impetus be given to the reform process Council of Europe's organizational structures and working methods. The process is aimed at an efficient functioning of the Organization according to its objectives and keeping fully in mind the need for budgetary restraints (cf. Part V of the Action Plan).

The Observatory's autonomy as a partial agreement is not expected to change following the above-mentioned decision. Consequently, CDMC members' concerns were dissipated as regards the continuation of constructive relations between the Media and Information Society Division and the Observatory's staff in matters of common interest.

20. Abridged report

40. The CDMC examined the draft abridged report on the meeting to be submitted to the Committee of Ministers (cf. document CDMC(2007)008) and adopted it subject to certain amendments. The full meeting report should be sent to members at the earliest opportunity.

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APPENDIX II

Agenda

1. Opening of the meeting

2. Adoption of the agenda

Working documents

- Draft agenda of the 5th meeting of the CDMC
CDMC(2007)OJ1prov2
- Notes on the draft agenda of the 5th meeting of the CDMC
CDMC(2007)OJ1notes
- Order of business of the 5th meeting of the CDMC
CDMC(2007)OT1

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

Working document

- Draft CDMC comments on PACE Recommendations
CDMC(2007)004

Information documents

- Report of the 4th meeting of the CDMC (28 November to 1 December 2006)
CDMC(2006)027
- Response of the CDMC to the message of the Committee of Ministers to committees involved in intergovernmental co-operation
CDMC(2006)026rev3
- CDMC Opinions on PACE Recommendations 1768 (2006), 1773 (2006) and 1783 (2007)
CDMC(2007)003rev
- Report of the meeting of the Bureau of the CDMC (3 and 4 May 2007)
CDMC-BU(2007)001
- Abridged report of the 4th meeting of the CDMC (28 November to 1 December 2006)
CM(2006)229

4. Follow-up to the monitoring procedure of the Committee of Ministers on freedom of expression and information

5. Work programme for the CDMC in 2007

Working documents

- Report of the meeting of the Bureau of the CDMC (3 and 4 May 2007)
CDMC-BU(2007)001
- Work plans of CDMC groups of specialists
MC-S-IC(2007)001, MC-S-MD(2007)003, MC-S-PSM(2007)004, MC-S-IS(2007)015

6. Working methods of the CDMC

(a) Promoting visibility of the work of the CDMC

Working documents

- Report of the meeting of the Bureau
CDMC-BU(2007)001
- Resolution (2005) 47 on committees and subordinate bodies, their terms of reference and working methods

7. Draft instruments or texts submitted by the Groups of Specialists for consideration by the CDMC

(a) Draft guidelines on protecting freedom of expression and information in times of crisis

Working document

- Draft guidelines on protecting freedom of expression and information in times of crisis
MC-S-IC(2007)004rev

(b) Draft declaration on the protection and promotion of investigative journalism

Working document

- Draft declaration on the protection and promotion of investigative journalism
MC-S-IC(2007)005rev

(c) Draft Recommendation on promoting freedom of expression and information in the new information and communications environment

Working document

- Draft Recommendation on promoting freedom of expression and information in the new information and communications environment
MC-S-IS(2006)012rev7

(d) Draft Recommendation updating Recommendation No. R (99)15 on media coverage of election campaigns, taking account of the development of

digital broadcasting services, on-line media and other electronic communication platforms

Working document

- Draft Recommendation updating Recommendation No. R (99)15 on media coverage of election campaigns, taking account of the development of digital broadcasting services, on-line media and other electronic communication platforms
MC-S-IS(2006)009rev7
Draft explanatory memorandum
- (e) Report on the implementation of 2003 Declaration on freedom of communication on the Internet by the member States**

Working document

- Report on the implementation of 2003 Declaration on freedom of communication on the Internet by the member States
MC-S-IS(2007)003
- 8. Implementation of Council of Europe standards on media and freedom of expression**
 - (a) Implementation of non-binding instruments prepared under the authority of the CDMC**

Working document

- Overview of the implementation of Recommendation (2000) 23 of the Committee of Ministers on the independence and functioning of regulatory authorities in the broadcasting field
CDMC(2007)005

Information document

- List of Recommendations and Declarations of the Committee of Ministers in the media field, and work currently being carried out in connection thereto
CDMC(2006)006
- (b) Discussion of a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights**

Working document

- Revised discussion paper prepared by the Secretariat on a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights
CDMC(2006)025rev2

9. Work of the CDMC's subordinate bodies

Working documents

- Compendium of the terms of reference of the CDMC subordinate bodies for 2007/2008
CDMC(2007)002
- Report of the meeting of the Bureau of the CDMC (3 and 4 May 2007)
CDMC-BU(2007)001
- Report of the 4th meeting of the CDMC (28 November to 1 December 2006)
CDMC(2006)027
- Adopted texts of the 7th European Ministerial Conference on Mass Media Policy, Kyiv (Ukraine), 10 and 11 March 2005
MCM(2005)005

(i) Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC)

Working documents

- Report of the 5th meeting of the MC-S-IC (22 and 23 March 2007)
MC-S-IC(2007)003
- Work plan of the MC-S-IC for 2007
MC-S-IC(2007)001

(ii) Group of Specialists on media diversity (MC-S-MD)

Working documents

- Report of the 5th meeting of the MC-S-MD (4 and 5 April 2007)
MC-S-MD(2007)002
- Work plan of the MC-S-MD for 2007/2008
MC-S-MD(2007)003

(iii) Group of Specialists on public service media in the Information Society (MC-S-PSM)

Working documents

- Report of the 5th meeting of the MC-S-PSM (19 and 20 March 2007)
MC-S-PSM(2007)003
- Work plan of the MC-S-PSM for 2007/2008
MC-S-PSM(2007)004

(iv) Group of Specialists on human rights in the Information Society (MC-S-IS)

Working documents

- Report of the 7th meeting of the MC-S-IS (26 and 27 March 2007)
MC-S-IS(2007)014
- Work plan of the MC-S-IS for 2007/2008
MC-S-IS(2007)015

10. Internet governance and implementation of the WSIS action lines

- (i) Contribution of the Council of Europe to the Internet Governance Forum (Rio de Janeiro, 12 to 15 November 2007)**
- (ii) Implementation of the World Summit on the Information Society action lines regarding the media (C9) and the ethical dimensions of the Information Society (C10)**

Working documents

- Report of the 4th meeting of the CDMC (28 November to 1 December 2006)
CDMC(2006)027
- Report of the meeting of the Bureau of the CDMC (3 and 4 May 2006)
CDMC-BU(2007)001

Information documents

- Secretariat overview of developments regarding the implementation of the WSIS action lines and planned contribution of the Secretariat of the Council of Europe to the Internet Governance Forum (Rio de Janeiro, 12-15 November 2007)
CDMC(2007)006
- Informal Summing-up of the Internet Governance Forum 2006 by the IGF Secretariat
- Background Report of the Internet Governance Forum, prepared by the IGF Secretariat
- Summary Report of the Action Line Facilitation Meeting on Action Line 9 “Media”
- [Draft] Summary Report of Consultation on Facilitation of WSIS Action Line C10 “Ethical dimensions of the Information Society”

11. First European Ministerial Conference on the Media and New Communication Services (Reykjavik 2009)

Working Documents

- Report of the meeting of the Bureau of the CDMC (3 and 4 May 2007)
CDMC-BU(2007)001
- 1st European Ministerial Conference on Media and New Information Communication Services. Background paper
CDMC-BU(2007)002

12. Intercultural Dialogue

Information Documents

- Overview of standards developed by the Steering Committee which relate to Media and Intercultural Dialogue
CDMC(2006)016
- Report of the 36th meeting of the Committee of Experts for the Development of Human Rights (DH-DEV), 7 to 9 February 2007, prepared by Dr Bissera Zankova
CDMC(2007)Misc1
- Report of the Conference on the Religious Dimension of Intercultural Dialogue (San Marino, 23 and 24 April 2007), prepared by Dr Bissera Zankova
CDMC(2007)Misc2
- Report of the 64th meeting of the Steering Committee for Human Rights (CDDH), 11 April 2007, prepared by Dr Bissera Zankova
CDMC(2007)Misc3

13. Standing Committee on Transfrontier Television (T-TT)

Information documents

- Report of the 1st meeting of the drafting group of the T-TT (29 and 30 March 2007)
T-TT-GDR(2007)002
- Report of the 4th meeting of the CDMC (28 November to 1 December 2006)
CDMC(2006)027

14. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to 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)**
 - **Group of Specialists on access to official information**
 - **Committee of Experts for the Development of Human Rights**
 - **Committee of Experts on Issues relating to the Protection of National Minorities**
- d. **Consultative Council of European Judges (CCJE)**
- e. **European Commission Against Racism and Intolerance (ECRI)**

Results of the Seminar on “The fight against racism in the full respect of freedom of expression”, organised by ECRI on 16 and 17 November 2006
ECRI(2006)47
- f. **Ad hoc Committee on e-democracy (CAHDE)**
- g. **Steering Committee for Culture (CD-CULT)**
- h. **Steering Committee of Education (CD-ED)**

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

- (a) **Report on the German Presidency of the European Union**

16. Administrative and budgetary matters

17. Dates of the next meeting

Working document

- Timetable of meetings of the CDMC and its subordinate bodies for 2007
CDMC(2006)018rev

18. Items to be included on the agenda of the 6th meeting of the CDMC

Working document

- Items to be included on the agenda of the 6th meeting of the CDMC
CDMC(2007)007

19. Other business

20. Abridged report

Working document

- Draft abridged report on the 5th meeting of the CDMC
CDMC(2007)008

APPENDIX III**Comments of the Steering Committee on the Media and New Communication Services (CDMC) on Recommendation 211 (2007) of the Congress of Local and Regional Authorities on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons**

The Steering Committee on the Media and New Communication Services (CDMC) fully supports and shares the views and recommendations of the Congress of Local and Regional Authorities.

The CDMC is deeply concerned by the homophobic incidences in a number of member states against lesbians, gays, bisexuals and transgendered persons. Irrespective of sexual orientation, it is of paramount importance that all human beings are treated equally with respect and dignity.

The rights and freedoms of all persons, including lesbians, gays, bisexuals and transgendered persons, are vital for true democracy. The right to freedom of expression, in particular to share and express one's identity, is fundamental to promoting diversity and tolerance in society. In this regard, the media play an important role in promoting understanding, social cohesion, cultural diversity and tolerance by enabling lesbians, gays, bisexuals and transgendered persons to make their views heard.

In this context, the CDMC recalls Committee of Ministers' Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance, which underlines the importance of professional media practice and responsibility in protecting various groups and individuals from negative stereotyping and in reflecting their positive contributions to society.

The CDMC reasserts that, pursuant to Article 10 of the European Convention on Human Rights, the state is the ultimate guarantor of the right of everyone to hold opinions and to receive and impart information and ideas without interference by public authorities. This includes the positive obligation for the state to provide effective protection and ensure respect for lesbians, gays, bisexuals and transgendered persons who wish to assemble and express themselves, even if their views are unpopular or are not shared by the majority of society.

The CDMC is extremely concerned by the "many cases" in member states where state authorities have endorsed and even supported or perpetuated discrimination against lesbians, gays, bisexuals and transgendered persons. Such interference by public authorities runs contrary to Article 10 of the European Convention on Human Rights and the case-law of the European Court of Human Rights⁴.

The Committee of Ministers Recommendation No. R (97)20 on "hate speech" asserts that public authorities and institutions have a "special responsibility to refrain from statements (...), speech (...) and other forms of discrimination or hatred based on intolerance" (Principle 1), especially when it is disseminated through the media. Any legitimate interference with freedom of expression should be "narrowly circumscribed and applied in a lawful and non-

⁴ *Özgür Gündem v Turkey* judgment of 16 March 2000; *Plattform "Ärzte für das Leben" v. Austria* judgment of 21 June 1988; and *Bączkowski and Others v. Poland* judgment of 3 May 2007.

arbitrary manner on the basis of objective criteria (and) subject to independent judicial control” (Principle 3).

In this connection, the CDMC welcomes the Congress’ reference to the Committee of Ministers Recommendation No. R (97)20 on “hate speech” which provides an excellent basis on which to ask member states to take a public stand against discrimination against sexual minorities in line with the principles of the Recommendation (Point 7.a.), to investigate and, where necessary, prosecute criminal offences against or related to lesbians, gays, bisexuals and transgendered persons (Point 7.c.) and to ensure that any legal interference with freedom of expression is *inter alia* no more restrictive than necessary (Point 7.e.).

In the framework of the Congress’ recommendations, the CDMC would suggest that member states are invited both to take note of and implement Committee of Ministers’ Recommendation No. R (97)20 on “hate speech” and Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance in respect of lesbians, gays, bisexuals and transgendered persons.

APPENDIX IV**Comments of the Steering Committee on the Media and New Communication Services (CDMC) on PACE Recommendation 1791 (2007) on the state of human rights and democracy in Europe**

1. The CDMC welcomes Recommendation 1791 (2007) of the Parliamentary Assembly of the Council of Europe on the state of human rights and democracy in Europe as well as the related Resolution 1547 (2007), especially as regards the importance accorded to freedom of expression and freedom of the media for democracy. Without such freedoms, elections and other democratic processes are seriously challenged and flawed.

2. The CDMC underlines the key role of national parliaments in fully implementing Council of Europe standards with a view to guaranteeing the media's independence. Other state organs also have a role to play in giving full effect in practice to regulatory frameworks.

Authorities should not be able to interfere with this independence to an extent that it would compromise the right to freedom of expression and information and the freedom of the media as guaranteed by Article 10 of the European Convention on Human Rights and the related case law of the European Court of Human Rights.

In this connection, a number of Committee of Ministers Recommendations and Declarations provide valuable guidance: Declarations on freedom of expression and information of 29 April 1982, on freedom of political debate in the media of 12 February 2004, and various other documents on freedom of expression and information in the media in times of conflict and tension and concerning public service.

3. As regards media owned by public authorities, in line with Council of Europe standards, member states should ensure that there is an effective and manifest separation between the exercise of control of media and decision making as regards media content and the exercise of political authority or influence.

National regulatory frameworks should ensure that media owned by public authorities are free from interference from authorities or political forces and ensure that they can effectively function as a genuine public service, truly serving the general interest. The same can be said in respect of the independence and proper functioning of media regulatory authorities. In this context, reference should be made to Recommendations No. R (96) 10 on the guarantee of the independence of public service broadcasting and No. R (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector, as well as to the Declaration on the guarantee of the independence of public service broadcasting in the member states of 27 September 2006.

4. Various Committee of Ministers texts also focus on media pluralism and diversity of media content, notably Recommendations No. R (99) 1 on measures to promote media pluralism, No. R (2003) 9 on measures to promote the democratic and social contribution of digital broadcasting and Rec(2007)2 on media pluralism and diversity of media content, as well as the Declaration on cultural diversity of 7 December 2000.

5. As regards, more particularly, the Parliamentary Assembly's request for measures to prevent and dismantle media concentration, the CDMC would point out that, as indicated by the Committee of Ministers in its Declaration on protecting the role of the media in democracy in the context of media concentration (adopted on 31 January 2007), concentration can offer certain benefits in respect, for example, of market efficiency, diversification of offer and consumer-tailored content.

However, the Committee of Ministers also alerted member states to the risk of misuse of the power of the media in a situation of strong concentration and its potential consequences for political pluralism and for democratic processes. It suggested a number of policy lines that can be resorted to with a view to countering such risks (e.g. adopt regulatory measures guaranteeing full transparency of media ownership or to prevent excessive levels of media concentration; monitor media markets and concentration in order to identify risks and take preventive or remedial action; ensure that public service media, in particular public service broadcasting, are adequately equipped and financed and enjoy genuine editorial independence and institutional autonomy; encourage diversity in the media; encourage the development of not-for-profit media). In addition to certain of the Committee of Ministers texts mentioned in the preceding paragraphs, reference might also be made in this context to Recommendation No. R (94) 13 on measures to promote media transparency.

In this context again, national law-makers have a role to play in establishing the regulatory framework capable of preventing media concentration from reaching a level which could involve a risk to democracy or to democratic processes, of counterbalancing the risks of such concentration levels or, if necessary, resulting in deconcentration measures.

6. Turning to the Parliamentary Assembly's call (in both its Recommendations 1783 (2007) on threats to the lives and freedom of expression of journalists and 1791 (2007) on the state of human rights and democracy in Europe) to establish a specific mechanism tasked with the mandate to monitor the situation of freedom of expression and of the media in Council of Europe member states and to suggest corrective measures, the CDMC is pleased to inform the Committee of Ministers that it has started to examine the matter.

More specifically, the CDMC has considered information provided by the Secretariat on options available and on the functioning of other mechanisms. It also held an exchange of views with representatives of existing mechanisms (Trevor Stevens, Executive Secretary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); Isil Gachet, Executive Secretary of the European Commission against Racism and Intolerance (ECRI); and Artemiza-Tatiana Chisca, from the Secretariat of the Advisory Committee of the Framework Convention on National Minorities) as well as Hallvard Gorseth, from the Secretariat of the Council of Europe Convention on Action Against Trafficking in Human Beings (under which GRETA will be set up). The CDMC also explored with Marc Scheuer, Director of the Office of the Commissioner for Human Rights and with Erik Fribergh, Registrar of the European Court of Human Rights, the question of risks of overlap or interference and potential for complementarity with the work of the Commissioner and of the Court.

7. This is a complex issue that requires careful analysis in respect of which the CDMC has not, at this stage, come to a conclusion. Some form of monitoring is considered desirable. However, only a few delegations expressed a clear position (some in favour, but others against), with many delegations raising the question of possible overlap or duplication with

other bodies (e.g. the Commissioner for Human Rights, OSCE Representative on Freedom of the Media). Nonetheless, the CDMC noted that there is also scope for complementarity and synergies (as already happens with existing mechanisms). The question of the budgetary implications of such a mechanism was also raised.

The CDMC has agreed to set up an informal working group to examine in further depth the issues raised during the discussion. It decided to pursue the discussion at its next meeting (to be held from 27 to 30 November 2007) in view of clearer indications sought from national authorities as to whether they would in principle support the creation of a specific mechanism as suggested by the Parliamentary Assembly. Relevant authorities are also asked to provide their views in respect of certain choices that would need to be made in case of a decision being taken in favour of setting up such a mechanism.

APPENDIX V

Comments of the Steering Committee on the Media and New Communication Services (CDMC) on PACE Recommendation 1792 (2007) on fair trial issues in criminal cases concerning espionage or divulging state secrets

The Steering Committee on the Media and New Communication Services (CDMC) welcomes *Recommendation 1792 (2007) of the Parliamentary Assembly of the Council of Europe on fair trial issues in criminal cases concerning espionage or divulging state secrets*. The CDMC shares the view of the Parliamentary Assembly expressed in its corresponding *Resolution 1551 (2007)* that the state's legitimate interest in protecting official secrets must not become a pretext to unduly restrict the freedom of expression and information.

The CDMC also agrees that the legislation on official secrecy in force in member states should be clear and specific, without vague and overly broad provisions and that it should be applied in a way compatible with the right to freedom of expression and information. Indeed, the application of such legislation should be consistent with the relevant case law of the European Court of Human Rights - cf. for example, *Stoll vs. Switzerland (2006)*; in the CDMC's view, in so far as media are concerned, this requires inter alia that the aim pursued by preserving state secrets is not outweighed by the information needs of society in general, and voters in particular, for them to be able properly to exercise their rights in a democracy.

As concerns paragraph 1.2 of Recommendation 1792 (2007), the CDMC would like to recall that it is currently looking, from various angles, into "ways and means of enhancing the protection of "whistleblowers" and journalists, who expose corruption, human rights violations, environmental destruction or other abuses of authority, in all Council of Europe member states".

The draft *Guidelines to member states on protecting freedom of expression and information in times of crisis* prepared by the CDMC's subordinate Group of specialists on freedom of expression and information in times of crisis (MC-S-IC), soon to be submitted to the Committee of Ministers, recalls that member states should protect the right of journalists not to disclose their sources of information in accordance with Recommendation No. R (2000) 7 of the Committee of Ministers of the Council of Europe.

The draft Guidelines also propose that, in principle, media professionals should not be required by law-enforcement agencies to hand over information or material (e.g. notes, photographs, audio and video recordings) nor should such material be liable to seizure for use in legal proceedings. Any exceptions to this approach should be strictly in conformity with Article 10 of the European Convention on Human Rights and the relevant case-law of European Court of Human Rights

Another draft instrument prepared by the MC-S-IC and soon to be submitted to the Committee of Ministers - draft *Declaration on the protection and promotion of investigative journalism* - proposes that member states are called upon to guarantee that deprivation of liberty, disproportionate pecuniary sanctions, prohibition to exercise the journalistic profession, seizure of professional material or search of premises are not misused to intimidate media professionals, notably those who expose corruption, violations of human rights and other abuses of authority.

The above-mentioned draft declaration also proposes to call on member states to incorporate into domestic legislation, where appropriate, the recent case law of the European Court of Human Rights which has interpreted Article 10 of the European Convention of Human Rights as extending its protection not only to the freedom to publish but also to journalistic research - the important preceding stage which is essential for investigative journalism.

In the same draft instrument, it is proposed that member states pay special attention (and take remedial action where appropriate) to recent worrying trends such as:

lawsuits brought against media professionals for acquiring or publishing information of public interest which the authorities sought without good reason to keep undisclosed;

cases of unjustified surveillance of journalists, including the monitoring of their communications;

legislative measures being taken or sought to limit the protection granted to “whistle blowers”.

APPENDIX VI**Comments of the
Steering Committee on the Media and New Communication Services (CDMC)
on
PACE Recommendation 1789 (2007) on the professional education and training of
journalists**

The Steering Committee on the Media and New Communication Services (CDMC) welcomes Recommendation 1789 (2007) of the Parliamentary Assembly of the Council of Europe on the professional education and training of journalists. The CDMC shares the view of the Parliamentary Assembly that sound education and continuing training of journalists is a major pre-condition for the existence of professional and responsible media.

At the same time, the CDMC recalls that, in its standard-setting and targeted assistance work, the Council of Europe has always emphasised the editorial independence of the media as one of the fundamental prerequisites for the free flow of information in a democratic society. In order to promote such independence and to create a favourable environment for the existence of free, professional journalism, the state should not be directly involved in the education and training of future and acting journalists. This is a task best left to a higher education system based on the relevant Council of Europe standards and to the media professionals themselves. The role of the state, in the CDMC's view, is to create, where relevant, an enabling legal and material base (including via tax incentives) for education and training of journalists.

Globalization and its effects on media and journalists, however, call for a broader discussion among all interested parties in order to respond adequately to the complex ensuing challenges. In the new media situation these parties should also follow technological developments and benefit from them by establishing an educational and training system in journalism based on the active use of the new information and communications services.

As concerns the Council of Europe's contribution, the CDMC notes with satisfaction the positive comments of the Parliamentary Assembly on the assistance provided to member states in the area of media legislation and media training. The CDMC considers that such work should continue, notably aiming to raise awareness of the relevant Council of Europe standards among media professionals and to encourage them to apply these standards in practice in their work. The Committee of Ministers might consider encouraging higher education institutions to include in their curricula courses dealing with media ethics as well as with human rights for media professionals, with due respect to the independence of the media and of the education institutions concerned.

The CDMC has examined with interest the specific recommendations made by the Parliamentary Assembly in paragraph 11 of its text. The CDMC would in particular support the proposals made in point 11.4 (pan-European exchanges) and 11.5 (conference on professional education and training of journalists) provided that the appropriate resources for such events can be secured (e.g. in the form of extra-budgetary funding). These events could be very good vehicles for increasing the visibility of and promoting the implementation of Council of Europe standards in the area of human rights and notably of freedom of expression and information.

Establishing Council of Europe chairs for media training is an interesting idea which would require further consideration having regard, in particular, to the resources required. In this connection, the CDMC understands that precedents exist among other intergovernmental organisations, e.g. the UNESCO supports a network of chairs at universities and the European Commission ad personam Jean Monnet Chairs in European integration studies. The issue could be discussed further within the framework of Council of Europe intergovernmental cooperation on higher education, together with media professionals and experts; the CDMC would be ready to contribute to such an initiative.

As concerns point 11.3, the CDMC recalls that networks of training centres for journalists (or related associations) already exist. Two notable examples are the European Journalism Training Association (EJTA) and the South-East European Network for the Professionalization of the Media (SEENPM) with whom the Council of Europe has often cooperated.

The CDMC would recall the work of its subordinate body, the Group of specialists on freedom of expression and information in times of crisis (MC-S-IC), on proposals aiming to promote the specialised training of media professionals covering crisis situations, with an emphasis on the journalists' physical safety and independent work in zones of conflict and tension. The documents prepared by the group could serve as an important element in the training of journalists both at an educational and practical level.

Reference should also be made to the Committee of Ministers Declaration on freedom of expression and information in the media in the context of the fight against terrorism (2 March 2005). The Declaration calls on public authorities in member states to encourage the training of journalists and other media professionals regarding their protection and safety. It also invites the media and journalists to consider (among others) the suggestion to set up training courses, in collaboration with their professional organisations, for journalists and other media professionals who report on terrorism, on their safety and the historical, cultural, religious and geopolitical context of the scenes they cover.

As a committee specialized in the field of the media and new communications services, the CDMC would like to draw attention to the professional training and education of journalists in the new media environment taking stock of the opportunities offered by Internet. In this respect, the CDMC would like to underline the important work done by its Group of specialists on human rights in the information society (MC-S-IS) for the elaboration of standards and principles of media education reflecting technological development.