



Strasbourg, 3 March 2009

CDMC-BU(2009)001

**BUREAU OF THE STEERING COMMITTEE  
ON THE MEDIA AND NEW COMMUNICATION SERVICES  
(CDMC-BU)**

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**Meeting of 19 and 20 February 2009  
Council of Europe, Palais de l'Europe, Strasbourg  
(Room 15)**

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**MEETING REPORT**

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

1. The Bureau adopted the agenda, as set out in Appendix II. The list of participants is set out in Appendix I. The meeting was chaired by Ms Delia Mucică (Romania) and was largely devoted to the preparation of the 9th meeting of the CDMC, and particularly the point on the First Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, 28 and 29 May 2009).

2. During the meeting, Messrs Jan Kleijssen, Director of Standard-Setting, and Jeroen Schokkenbroek, Head of the Human Rights Development Department in the Directorate General of Human Rights and Legal Affairs (DGHL), addressed the Bureau. They greeted in particular the newly elected Bureau member, Vice-Chairperson and Chairperson, wishing the latter a fruitful chairmanship. They also reported on decisions taken by the Committee of Ministers on issues of interest to the CDMC (see paragraph 4 to 7 below).

They welcomed work on the preparation of the next specialised Ministerial Conference and the Council of Europe standard-setting work to be proposed at the Conference for the coming years. In this context and having regard to additional budgetary restrictions under consideration, the need to establish clear priorities was underlined.

3. Mr Kleijssen, in particular, expressed hope that high priority would be given in the future to this cutting edge work on information society and internet governance. He acknowledged that, already at present, the Council of Europe had no rival among international organisations in standard-setting work in this area. During discussion on a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights (see paragraphs 5 and 6), he underlined the importance of freedom of expression underpinning the Council of Europe core values, human rights democracy, and the rule of law

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

4. The Bureau took note of the adoption by the Committee of Ministers on 11 February 2009 of the last CDMC abridged meeting report and of the renewed terms of reference for the CDMC for the period 2009 to 2011. During the same meeting, the Committee of Ministers welcomed the approach adopted by the CDMC in respect of drafting style (to render standard-setting texts simple and easy to understand). Moreover, on the same occasion the Committee of Ministers adopted the Declaration on the role of community media in promoting social cohesion and inter-cultural dialogue.

The Bureau also noted that, on 18 February 2009, the Committee of Ministers adopted a Recommendation on electronic democracy (e-democracy) prepared by the Ad hoc Committee on e-democracy (CAHDE). The Bureau recalled that the CDMC, its subordinate bodies and Secretariat had provided various comments and input during the drafting process.

5. On 3 February 2009, in response to the request from the CDMC for additional instructions, the Committee of Ministers Rapporteur Group on Human Rights (GR-H) continued discussions on a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights. Relevant extracts of the meeting synopsis reads as follows:

*“A number of delegations gave reasons – such as the risk of duplication, the possible financial implications for the Council of Europe, the risk of fragmentation of human rights – against the setting up of any new mechanism.*

*The discussions also highlighted the fact that the participants wished to see the Council of Europe more actively promoting compliance with Article 10 of the European Convention on Human Rights and taking preventive action against violations of freedom of expression.*

*Consequently, before making a recommendation to the Deputies on this matter, the GR-H invites the Steering Committee on the Media and New Information Services (CDMC) to present them with practical proposals on a “light” means of achieving this outcome using the existing structures. In its work, the CDMC would pay particular attention to the need to create synergies with the various Council of Europe bodies and organs and with the other relevant international organisations and institutions. It would also involve the Commissioner for Human Rights in its reflexions and its work on this subject.”*

Bureau members expressed satisfaction in respect of the GR-H decision and the clear call for further work in this respect and noted that it may feature among the priorities of the upcoming Swiss Chairmanship of the Council of Europe Committee of Ministers.

6. The Bureau agreed to propose to the CDMC to (i) ask the Commissioner for Human Rights for his views on the matter, (ii) ask a small group of CDMC members assisted, if appropriate by suitable independent experts, to elaborate practical proposals on light means for “*more actively promoting compliance with Article 10 of the European Convention on Human Rights and taking preventive action against violations of freedom of expression*”, and (iii) examine the proposals of this group at the November 2009 meeting. In respect of (ii) above, the Bureau agreed that proposals should pay particular attention to, and take account of the views expressed by, existing bodies.

7. The Committee of Ministers transmitted the Parliamentary Assembly Recommendation 1855(2009) on the regulation of audiovisual media services and the related report by Mr Andrew McIntosh, to the CDMC for information and possible comments by 15 April 2009. The Bureau asked the Secretariat to prepare a draft response in light of remarks made during the meeting and received from CDMC members. The draft response should be finalised for circulation to the CDMC in good time for its consideration at the next Steering Committee meeting.

#### **Item 4. Work programme for the CDMC in 2009**

8. The Bureau noted that the work programme for the CDMC in 2009 flows in particular from discussions under items 7 to 10 and that a separate discussion was not necessary at this stage. Nonetheless, it agreed that this item should remain a regular feature of CDMC and Bureau agendas.

#### **Item 5. Draft instruments or texts for consideration by the CDMC**

9. At its last meeting, the CDMC held a first discussion on the draft recommendation on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment prepared by the

Group of Specialists on Human Rights in the Information Society (MC-S-IS). Given that CDMC members made no further comments of relevance (due by 25 January 2009), the Bureau decided to propose that, at its next meeting, the CDMC approves the draft and transmits it to the Committee of Ministers for adoption.

**Item 6. Implementation of non-binding instruments prepared under the authority of the CDMC**

10. The Bureau considered that this item did not require consideration at this stage. Nonetheless, it agreed that this item should remain a regular feature of CDMC and Bureau agendas.

**Item 7. Discussion on a possible Council of Europe convention on the protection of the neighbouring rights of broadcasting organisations**

11. The Bureau noted that, in line with CDMC decisions, on 9 January 2009, the Secretary General of the Council of Europe wrote to Mr Charlie McCreevy, European Union Commissioner for Internal Market and Services, informing him of CDMC discussions on this matter. Mr McCreevy was, in particular, invited to comment on whether the European Commission would be prepared to seek a mandate to negotiate a convention on the protection of the neighbouring rights of broadcasting organisation. The Bureau agreed that the CDMC should be invited to discuss the course of action at its next meeting including, if appropriate, the terms of reference of an ad hoc advisory group that might be set up to deal with this task.

**Item 8. CDMC subordinate bodies**

12. The Bureau noted that, having regard to the Committee of Ministers Resolution (2005) 47 on committees and subordinate bodies, their terms of reference and working methods, CDMC subordinate structures could be either committees of experts (governments of all member states being entitled to designate a member, but not all of them necessarily being reimbursed by the Council of Europe for travel and subsistence in connection with committee of experts' meetings) or ad hoc advisory groups (i.e. groups of specialists of limited composition).

13. In light of limited budgetary resources, the Bureau agreed to submit to the CDMC proposals involving:

- Committee of Experts on New Media (MC-NM)

The Bureau proposes that, resources permitting, the MC-NM be made up of 15 to 20 reimbursed member states' representatives. Other member states would be entitled to send representatives at their own expense. Suitable observers should also be invited to participate in MC-NM meetings at their own expense. The member states whose experts will be reimbursed should be selected according to expertise and acknowledged availability for, or demonstrated, active participation to date in new media and information society work done by the CDMC and its subordinate bodies. The Bureau agreed that it would make concrete proposals during the next CDMC meeting as to the criteria for selection for reimbursed participation.

The MC-NM should be mandated to examine the notion of media, suggesting concrete consequences of its reconceptualisation in terms of the applicability of Council of Europe standards. Its mandate should take account of relevant items of the action plan to be adopted at the Reykjavik Ministerial Conference. The group's tangible output should consist of one or more policy or standard-setting documents. It should also serve as an intergovernmental forum for first discussion of texts prepared by other CDMC subordinate bodies working on information society related issues. Subject to CDMC and Committee of Ministers' decisions, the MC-NM could make an early start on its work, e.g. holding a first meeting already in June 2009 on condition that member states can select experts at such short notice.

- Ad hoc Advisory Group on the Governance of Public Service Media (MC-S-GPSM)

The Bureau proposes that, resources permitting, the MC-S-GPSM be made up of 6 to 9 reimbursed member states' representatives. Few selected observers (e.g. the European Broadcasting Union) should also be invited to participate in its meetings at their own expense. The member states whose experts will be reimbursed should be selected according to expertise (in public service matters generally, public service media, models for enhanced participation, democracy and governance, and modern management techniques). One of the criteria for identifying member states whose experts will be reimbursed should be acknowledged availability for or demonstrated active participation in CDMC and its subordinate bodies' work on public service media in the information society.

The MC-S-GPSM should be mandated to elaborate policy guidance, in the form of one or more standard-setting documents, on governance models that should enhance public service media's capacity to adapt to changes in the new highly competitive and dynamic information and communications environments, and contribute to its ability to fulfil its remit in a democratic society.

- Ad hoc Advisory Group on Access to the Internet and Critical Internet Resources (MC-S-ACI)

The Bureau proposes that, resources permitting, the MC-S-ACI be made up of 5 to 7 reimbursed member states' representatives. Few selected observers could also be invited to participate in its meetings at their own expense. The member states whose experts will be reimbursed should be selected according to expertise (in international law and internet governance, drafting international law and human rights instruments). In this context, account could be taken of member states' acknowledged availability for and active participation to date in internet governance and information society work carried out by the CDMC or its subordinate bodies.

The MC-S-ACI should be mandated to prepare one or more international law instruments designed to reaffirm the need and strengthen guarantees for the unimpeded cross-border internet transit and for the recognition of the public value of critical internet resources and the ensuing need that they be managed and protected in the public interest. It could facilitate or contribute to the elaboration of other relevant standard-setting information society or internet governance related instruments. This group could usefully consult public service or public value issues with the MC-S-GPSM.

- Ad hoc Advisory Group on Neighbouring Rights (MC-S-NR)

Subject to the agreement to be reached by the CDMC (see item 7 above), the MC-S-NR might be mandated to prepare a draft Council of Europe convention for the protection of neighbouring rights of broadcasting organisation.

The Bureau proposes that, resources permitting, the MC-S-NR be made up of around 5 reimbursed member states' representatives. The European Commission should take part in its work, mandated to negotiate a neighbouring rights convention on behalf of European Union member states. Few selected observers (e.g. the World Intellectual Property Organisation and European Broadcasting Union) should also be invited to participate in its meetings at their own expense. The member states whose experts will be reimbursed should be selected according to expertise (in intellectual property law, drafting international law instruments), taking also into account member states' acknowledged availability for and active participation to date in related Council of Europe work.

The MC-S-NR should be mandated to prepare a draft Council of Europe convention for the protection of neighbouring rights of broadcasting organisation.

14. The Bureau also agreed that the terms of reference of its subordinate bodies should be submitted to the Committee of Ministers following the next CDMC meeting with a view to allowing work to start shortly after the Reykjavik Ministerial Conference. It made clear that these bodies' terms of reference will have to be read and interpreted taking full account of the texts adopted by the Ministerial Conference and further decisions to be taken in respect of the drafting of conventions (e.g. on neighbouring rights).

Moreover, the Bureau suggested that ad hoc working or drafting groups could be established within the CDMC according to needs, in order to deal with specific issues not falling within the remit of any of the other CDMC subordinate bodies.

15. The Bureau noted information provided by the Secretariat on the state of play of the Living together project. It is expected that the publication will be available before the Reykjavik Ministerial Conference.

#### **Item 9. First Council of Europe Conference of Ministers responsible for Media and New Communication Services (Reykjavik, 28 and 29 May 2009)**

16. The Bureau discussed in detail organisational issues of the Conference, the names of speakers, panellists and participants envisaged and made suggestions on the subject. It asked the Secretariat to transmit a final invitation to CDMC members for suggestions concerning speakers and moderators and to establish contact with potential participants without delay. As regards the programme of the conference, it proposed that 5 to 10 minute response time be offered to civil society after member states' delegation intervene on each sub-theme.

The Bureau also agreed to propose to the CDMC that the Council of Europe Commissioner for Human Right and the OSCE Representative on Freedom of the Media be invited to address the Ministerial Conference on the second day, in relation to emerging challenges to freedom of expression and information (in its provisional wording or, according to previous CDMC discussions, "rendering standards effective in practice" or "developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information") (see also paragraph 18 in fine).

17. The Bureau also discussed the draft documents for adoption at the Ministerial Conference in light of comments received from delegations to date. The Bureau welcomed the draft Political Declaration and the re-drafted Resolutions “Towards A New Notion of Media” and related Action Plan, and on Internet Governance and Critical Internet Resources. Subject to certain additional changes, the Bureau decided that they should be circulated to the CDMC at the earliest opportunity.

18. As regards the draft Resolution on Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information, the Bureau noted that several delegations had expressed their support, one proposing to organise a dedicated event on the margins of the Ministerial Conference, and two had made suggestions for minor changes. Several observers expressed strong support for the draft resolution. The Bureau also noted that one delegation had indicated that it could not support the resolution and that another one would also possibly not support it. The former indicated that any texts concerning anti-terrorism should be negotiated in, and agreed by, the Council of Europe Committee of Experts on Terrorism (CODEXTER).

The Bureau disagreed with the latter position, underlining that CODEXTER is mandated to coordinate Council of Europe action against terrorism, while work on the protection of human rights remains a common objective of a number of other Council of Europe bodies. It noted that, according to its terms of reference, the desirable qualifications of CODEXTER experts are “detailed knowledge of legal or financial questions concerning terrorism”. The CDMC remit certainly encompasses questions which may relate to terrorism insofar as they concern freedom of expression and information and that of the Steering Committee for Human Rights (CDDH) is explicit on the matter. This common objective is evidenced by standard-setting instruments elaborated to date by the CDMC or by the CDDH and adopted by the Committee of Ministers, such as the 2002 Guidelines on human rights and the fight against terrorism, the 2005 Declaration on freedom of expression and information in the media in the context of the fight against terrorism and the 2007 Guidelines on protecting freedom of expression and information in times of crisis.

In light of this, the Bureau agreed to propose to the CDMC to pursue consideration of a Resolution on Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information for adoption at the Ministerial Conference. It asked the Secretariat to circulate the draft anew subject to certain changes resulting from comments received to date. It also invited delegations that do not support the resolution to explain their position and arguments at the next CDMC meeting. Subject to the outcome of further CDMC discussion on the subject, the Bureau suggested that the item in the draft programme provisionally worded “emerging challenges to freedom of expression and information” should offer the opportunity for Ministers to discuss this matter.

#### **Item 10. Standing Committee on Trans-frontier Television (T-TT)**

19. The Secretariat informed the Bureau on T-TT work and on the state of play of the revision of the European Convention on Transfrontier Television (ECTT) (see also paragraph 7 above on the PACE Recommendation on “The regulation of Audiovisual Media Services”).

#### **Item 11. Dates of the next meetings**

20. The Bureau confirmed that it will hold its next meeting in the afternoon of Tuesday, 24 March 2009, i.e. on the eve of the next CDMC meeting (to be held on 25 and 26 March 2009).

**Item 12. Administrative and budgetary matters**

21. The Bureau took note of the remarks made by Messrs Jan Kleijssen and Jeroen Schokkenbroek on budgetary matters (see paragraph 2, second sub-paragraph above).

**Item 13 Other business**

22. No issues were raised under this item.



**APPENDIX I****List of participants**Members of the Bureau

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## APPENDIX II

### Agenda

- 1) **Opening of the meeting**
- 2) **Adoption of the agenda**
  - Draft agenda – CDMC-BU(2009)OJ1
  - Notes to the agenda – CDMC-BU(2009)OJ1Notes
- 3) **Decisions of the Committee of Ministers of interest to the work of the CDMC**
  - Report of the 8th meeting of the CDMC – CDMC(2008)021
  - Abridged report of the 8th meeting of the CDMC – CDMC(2008)016
  - Draft CDMC mandate for 2009-2011
  - Declaration on the role of community media in promoting social cohesion and inter-cultural dialogue
  - Possible future mechanism in respect of Article 10 of the European Convention on Human Rights
  - “The Regulation of Audiovisual Media Services”, report by Andrew McIntosh
  - PACE Recommendation 1855(2009) on The regulation of Audiovisual Media Services
  - CDMC comments on texts from the Congress of Local and Regional Authorities
- 4) **Work programme for the CDMC in 2009**
- 5) **Draft instruments or texts for consideration by the CDMC**
  - Draft recommendation on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment – MC-S-IS(2008)011rev4
- 6) **Implementation of Council of Europe standards on media and freedom of expression prepared under the authority of the CDMC**
- 7) **Discussion on a possible Council of Europe convention on the protection of the neighbouring rights of broadcasting organisations**
  - Letter from CoE Secretary General to Mr Charlie McCreevy, EU Commissioner for Internal Market and Services
- 8) **CDMC subordinate bodies**
  - Draft terms of reference of CDMC subordinate bodies – CDMC(2009)001
  - **Living together**
- 9) **1st Council of Europe Ministerial Conference on the Media and New Communication Services (Reykjavik, 28-29 May 2009)**
  - Draft Programme – MCM(2009)001prov
  - Draft Resolution : A New Notion of Media & Draft Action Plan – MCM(2009)003prov

- Draft Resolution on Development in national legislations since 2001 concerning the fight against terrorism which have a bearing on freedom of expression and information and freedom of the media – MCM(2009)004prov
- Draft Resolution on Internet Governance and Critical Internet Resources – MCM(2009)005prov

Background documents:

- “A new Notion of Media” background paper by K. Jakubowicz - MCM(2009)007
- “Speaking of terror”, background paper by David Banisar - MCM(2009)008
- “Internet governance and critical internet resources”, background document MCM(2009)009
- Background paper on public service media governance (draft outline)

Submissions:

Trust in present and future media", submission by the European Co-ordination Forum for the Council of Europe Disability Action Plan 2006-2015 (CAHPAH)

**10) Standing Committee on Transfrontier Television (T-TT)**

- “The Regulation of Audiovisual Media Services”, report by Andrew McIntosh
- PACE Recommendation 1855(2009) on The regulation of Audiovisual Media Service

**11) Dates of the next meetings**

**12) Administrative and budgetary matters**

**13) Other business**

- Follow-up work on the operation and functioning of media complaints bodies
- Request for observer status by the non-governmental organisation Permanent Conference of the Mediterranean Audiovisual Operators (COPEAM)