



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 22 October 2007

CDMC-BU(2007)003

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

**(CDMC-BU)**

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**Meeting of 18 and 19 October 2007  
Council of Europe Office, 55 avenue Kléber, 75016 Paris  
(Room 2)**

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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 Mr Matthias Traimer (Austria) and was largely devoted to the preparation of the 6th meeting of the CDMC.

**Item 3. Preparation of the 6th meeting of the CDMC (27 to 30 November 2007) with reference to the CDMC's provisional draft agenda (CDMC(2007)OJ2prov)****a. Decisions of the Committee of Ministers of interest to the work of the CDMC**

2. The Bureau took note of the adoption by the Committee of Ministers of the Guidelines on protecting freedom of expression and information in times of crisis, the Declaration on the protection and promotion of investigative journalism and the Recommendation promoting freedom of expression and information in the new information and communications environment. Given the delay in finalising the French version of the explanatory memorandum, the revised Recommendation on media coverage of election campaigns will be examined and possibly adopted by the Committee of Ministers at its 7 November 2007 meeting.

3. The Bureau also noted with satisfaction that the preparation of a Draft Recommendation on measures to promote the public service value of the Internet had been successfully completed by the CDMC by means of an electronic consultation process. It is expected that this text will also be adopted by the Committee of Ministers at its 7 November meeting. The Bureau considered it desirable that this document be presented to the Internet Governance Forum (IGF) that will take place in Rio de Janeiro, Brazil, from 12 to 15 November 2007.

The Bureau expressed its gratitude to Mr Karol Jakubowicz for his excellent contribution to the elaboration of this Draft Recommendation.

4. As regards the procedure followed by the CDMC for the finalisation and approval of the Draft Recommendation on measures to promote the public service value of the Internet (in accordance with decisions taken at the last Steering Committee meeting), the Bureau expressed the view that resort to electronic consultation should be exceptional when important documents are concerned and that discussions in a meeting are far preferable in those cases.

**- Comments on PACE Recommendation 1805 (2007) on Blasphemy, religious insults and hate speech against persons on the ground of their religion**

5. The Bureau decided that CDMC members be invited to provide comments on this PACE Recommendation by 6 November 2007, with a view to preparing a response. It also expressed the view that it may not be necessary to elaborate much on the subject given the work being carried out by other Council of Europe bodies and in view of the fact that this matter is not freedom of expression or media-specific.

It recalled, however, in this context that, according to the case law of the European Court of Human Rights, subject to paragraph 2 of Article 10 of the European Convention on Human

Rights, the right to freedom of expression consecrated therein is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb.

- **Comments on PACE Recommendation 1799 (2007) on the image of women in advertising**

6. The Bureau decided that the views of CDMC members also be sought on this subject, with the same proposed due by date as above (namely 6 November 2007). It recalled that both these PACE Recommendations had been the subject of early circulation to CDMC members by the Secretariat, shortly after their adoption by the Parliamentary Assembly.

As to the substance, the Bureau underlined the need for the CDMC to examine the subject matter of this Recommendation from a freedom of expression and freedom of the media viewpoint, while having regard also to paragraph 2 of Article 10 of the European Convention on Human Rights (e.g. by reference to the rights of others). It considered that, although the subject is properly examined by specialised Council of Europe bodies dealing in particular with gender issues, it could be explored from the viewpoint of media (including new communication and information environments) and human dignity within the framework of the First Ministerial Conference on Media and New Communication Services to be held in Spring 2009 (see paragraph 28 below).

- **Comments on PACE Recommendation 1814 (2007) towards decriminalisation of defamation**

7. The Bureau expressed the view that CDMC comments on this subject should take account of work carried out recently, in particular the views transmitted to the Committee of Ministers as adopted at the Steering Committee's 3rd meeting (30 May to 2 June 2006) on the alignment of laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation. The Bureau also underlined the need to continue to stress the difference between defamation and hate speech. In the Bureau's view, there is no need at present to revisit Committee of Ministers Recommendation (97) 20 on hate speech, although some Bureau members suggested that there is a need to give it more visibility and make better use of that Recommendation.

The Bureau decided that CDMC members be invited to provide comments on PACE Recommendation 1814 (2007) by 6 November 2007, with a view to preparing a response to the Committee of Ministers.

- **Conclusions of the International Conference "Why terrorism? Addressing the conditions conducive to the spread of terrorism" (Strasbourg, 25 and 26 April 2007) CM(2007)94 add.**

- **Council of Europe "road map" for the implementation of the United Nations Global Counter-Terrorism Strategy.**

8. The Bureau took note of these two documents and of the need to report to the Committee of Ministers on any CDMC work that contributes to the implementation of the United Nations Global Counter-Terrorism Strategy (e.g. the future work on "Living Together").

**b. Work programme for the CDMC in 2008**

9. The Bureau recalled that the CDMC work in 2008 will follow the output of the groups of specialists with the objective of completing to the extent possible the Action Plan adopted at the Kyiv 2005 Ministerial Conference on Mass Media Policy. It further noted that the preparation of the next Ministerial Conference will involve considerable work for the CDMC and for its members, as well as for the Secretariat.

10. Under this item, the Bureau also discussed the desirability for the CDMC to prepare a document for possible adoption by the Committee of Ministers on the use of the so-called digital dividend (spectrum capacity freed due to digital broadcasting following switchover from the more spectrum-thirsty analogue transmission). It expressed the view that this should take the form of a simple and brief statement of a political nature (a Committee of Ministers declaration) highlighting the nature of the digital dividend as a public domain resource and that decisions as to its use should take due account of present and foreseeable public interest, including in respect of media pluralism and diversity. The Bureau considered that this should be dealt with promptly so that the Council of Europe's views on the subject are already known when policies are laid out and decisions taken by relevant authorities.

The Bureau agreed that the views of CDMC members be sought on this subject so that action can be taken, if appropriate, at the next Steering Committee meeting. In this context, it asked the Secretariat to make available to CDMC members the views already expressed by relevant stakeholders on the subject (e.g. European Commission, European Broadcasting Union). Moreover, relevant experts could be invited as guest speakers in order to hold an exchange of views on the subject with the CDMC at its next meeting.

**c. Promoting visibility of the work of the CDMC**

11. The Bureau decided that a brief questionnaire be addressed to CDMC members and observers in order to gather information on the visibility provided by them to Council of Europe standards elaborated by the CDMC (and previously by the CDMM) (e.g. links on their websites) and references made to such standards in domestic legislation.

12. The Secretariat informed the Bureau of work to be undertaken in the immediate future to improve the Media and Information Society Division's web site.

The Bureau reiterated the view that the Council of Europe information offices in member states can contribute to the visibility of the Organisation's media and information society related standards.

13. The Bureau also noted that the Internet Governance Forum will be an excellent opportunity to give visibility to relevant Council of Europe standards (in particular the Recommendation on measures to promote the public service value of the Internet, if it is adopted by the Committee of Ministers before the IGF).

**d. Draft instruments or texts to be submitted to the CDMC for consideration**

- (i) draft Recommendation on media complaints bodies, their operation and procedures**

14. The Bureau agreed to provide comments by 24 October 2007 on the draft under preparation which, in its view, goes in the right direction. Those comments should help the consultant currently working on the subject to complete the draft. The Bureau also expressed the view that the draft should be accompanied by an explanatory memorandum.

**(ii) draft Recommendation on the use and impact of technical filtering measures with particular regard to Article 10 of the European Convention on Human Rights**

15. The Bureau expressed support for work being done by the MC-S-IS on this subject. It noted that the group of specialists will continue to work on the draft during its next meeting (29 and 30 October 2007) and that it could be finalised and transmitted to the CDMC for examination at the next Steering Committee meeting.

**(iii) draft Recommendation on copyright and freedom of expression, access to knowledge and education**

16. The Bureau found that further work needs to be done on the draft texts on this subject, notably with the input of copyright specialists from within the MC-S-IS and possibly also the Bureau and CDMC, as well as relevant ministries in member states. The Bureau looks forward to the transmission in due course of the report on this matter by the group to the CDMC and, as regards concrete proposals for further action, encourages the group to pursue its discussions and consultations, especially with copyright experts.

**(iv) practical tools on understanding the freedom of expression with regard to the work of:**

- Internet Service Providers

17. The Bureau took note of the nature of the draft document on which the MC-S-IS will continue to work at its next meeting, namely that it does not set new standards but recalls and seeks to give visibility to existing standards as applicable to Internet Service Providers. Consequently, once finalised, these tools (and others under preparation) should be discussed and, if appropriate approved, by the CDMC and transmitted to the Committee of Ministers for information.

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

**(i) implementation of Recommendation (2000) 23 of the Committee of Ministers on the independence and functioning of regulatory authorities in the broadcasting sector**

18. The Bureau asked the Secretariat to align the presentation of the current text to that of a draft Committee of Ministers declaration (comparable to the Declaration on the guarantee of the independence of public service broadcasting adopted on 27 September 2006). The draft should then be circulated to CDMC members asking for their comments, including concrete drafting proposals with a view, if appropriate, to finalise the text at the next Steering Committee meeting.

**(ii) developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism**

19. The Bureau agreed that it would be desirable to undertake a study on legal developments in member states in recent years with regard to freedom of expression and information in the context of the fight against terrorism. Once this study is available, the CDMC could hold a hearing on the subject in order to gather information on the impact in practice of such developments on freedom of expression and information and freedom of the media, having regard to Article 10 of the European Convention on Human Rights and the relevant case law of the European Court of Human Rights. The Bureau invites the CDMC to consider this approach at its next meeting.

**f. Discussion on a possible future mechanism in respect of Article 10 of the European Convention on Human Rights**

20. Ms Delia Mucica, who had been asked by the CDMC to chair the informal working group on the topic, informed the Bureau on progress made and on the state of discussions underlining the various trends in the answers provided by member states, while a number of the latter have not yet expressed their views on the matter. The Bureau noted that the Head of the Office of the OSCE Representative on Freedom of the Media had expressed the view that a Council of Europe mechanism would be desirable and that it would not overlap but complement the work of the Representative.

Ms Mucica also informed that, following the criteria outlined by the CDMC, she had invited the following delegations to take part in the informal working group: Bulgaria, Denmark, France, Estonia, the Russian Federation, Spain, Switzerland and the United Kingdom. Most had accepted, while Denmark had declined and one (or two?) had not responded. The Bureau requested that, resources permitting, a meeting of the informal working group be organised before the next CDMC meeting.

21. The Bureau also noted the interest of certain members of the Parliamentary Assembly, more particularly Lord Andrew McIntosh, on the subject of a possible future Council of Europe mechanism in respect of Article 10 of the European Convention on Human Rights. The Bureau welcomed this interest and expressed the wish that relevant members of the Parliamentary Assembly take part in the CDMC discussions during the next meeting. It would be desirable that the OSCE and other observers, including but not limited to those that have already expressed a view on the matter (e.g. the Conference of INGOs and Article 19), take an active part in those discussions.

**g. Discussions on the work of the CDMC subordinate bodies**

22. The Bureau took note of the reports already available on meetings of the groups of specialists held since the last CDMC meeting, and welcomed progress being made on their respective work.

23. On a general note, it reiterated the view that recourse to consultants should seek to facilitate the work of the groups of specialists reporting to the CDMC as regards research or the gathering of information that would otherwise be unavailable for the group. Recourse to consultants should not impinge in the role which is properly that of an intergovernmental

group of experts, seeking to establish member states' common understanding and consensus on matters of common interest within the CDMC's mandate.

- **Extension of the terms of reference of the MC-S-IC**

24. The Bureau held an exchange with Mr Alexander Borisov, chairperson of the MC-S-IC, and took note of his explanations on the current state of the group's work and its proposals for 2008 and beyond. The Bureau also noted that, according to the last MC-S-IC meeting report, certain documents will be finalised by the Secretariat upon instructions of the group (draft statute for an award for media which have made an outstanding contribution to conflict prevention or resolution, understanding and dialogue; document concerning the training of media professionals in order to provide professional and independent coverage of crisis situations; proposal concerning a forum on the rights and responsibilities of the media and the working conditions of journalists in times of crisis and an information network on the media's contribution to inter-cultural and inter-religious dialogue - see MC-S-IC(2007)011, paragraphs 10, 14 and 23). The Bureau trusts that this will allow the CDMC to consider them at its next meeting; it requested that efforts be made to meet this target.

25. The Bureau noted that the question of whether to extend or not the terms of reference of the MC-S-IC (which come to an end on 31 December 2007) will have to be decided by the CDMC at the next meeting. For its part, the Bureau was not persuaded of the opportunity to extend them. Certain of the items proposed by the group overlap with the CDMC's own ongoing work could well be dealt with by the CDMC itself, whether or not with the support of a CDMC sub-group, advisory panel or similar formation (e.g. consideration of the desirability of a mechanism in respect of Article 10 of the European Convention on Human Rights) while other possible tasks (e.g. examining developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism - see paragraph 19 above).

**h. Internet governance and implementation of the WSIS action lines**

26. The Bureau took note of information provided by the Secretariat on the preparation of the second Internet Governance Forum and of the expected Council of Europe participation therein. It asked the Secretariat to provide oral information on the Forum to the CDMC at the upcoming meeting.

27. It also took note of information provided by the Secretariat on the Joint Council of Europe / French Commission for UNESCO / UNESCO meeting on "Ethics and human rights in the information society" held in Strasbourg on 13 and 14 September 2007.

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

28. The Bureau reiterated the importance of what will be the *first* European Ministerial Conference to focus on the media *and* the new communication services.

It considered a number of possible themes and found that "trust in today's and future media" would provide a good framework for identifying upcoming topical issues related to the work of the CDMC and which will need to be addressed in the coming years. This heading would

permit to examine inter alia the definition (re-definition) of media with regard to user-generated content, other media (as regards both medium and content aspects) and public service value, as well as the relations between media and individuals, including from the human dignity and ethics viewpoints. There should also be scope to incorporate new or emerging issues and other developments (e.g. concerning the revision of the European Convention on Transfrontier Television).

29. The Bureau also discussed the format (ongoing plenary, with two simultaneous workshops - which could report back to the plenary - involving ministers, civil society, industry) and asked the Secretariat to prepare an outline having regard to its discussions.

**j. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC**

30. Under this item, at the next CDMC meeting, Bureau or other Steering Committee members should provide information on meetings of other Council of Europe bodies or other events in which they represented the Steering Committee. The Secretariat should supplement, to the extent necessary, that information.

**Item 4. Administrative and budgetary matters**

31. The Secretariat informed the Bureau of the most recent staff changes in the Media and Information Society Division. The Bureau also noted that the budget for 2008 had not yet been adopted.

**Item 5. Dates of the next meeting**

32. The Bureau took note of the proposed calendar for meetings of the CDMC and its subordinate bodies in 2008. Certain adjustments may well be needed once the dates for the 2008 Internet Governance Forum are known. The Bureau also noted that a meeting will be organised by the OECD in Seoul, Korea, in June 2008 on the Internet economy. Following the suggestion of certain member states, it should be expected that the Council of Europe be invited to attend that meeting.

**6. Other business**

**(i) request by EBU to include on the CDMC agenda the protection of neighbouring rights of broadcasting organisations**

33. The Bureau noted the request made by the European Broadcasting Union to include on the CDMC agenda the protection of neighbouring rights of broadcasting organisations and, more particularly, the possibility of elaborating a Council of Europe convention on the subject. The Bureau decided to put this item on the agenda for the next CDMC meeting.

**(ii) request for observer status**

34. The Bureau took note of the request made by the non-governmental organisation Community Media Forum Europe (CMFE) to be given observer status with the CDMC and with two of its groups of specialists, namely the MC-S-MD and MC-S-PSM. The Bureau decided to put this item on the agenda for the next CDMC meeting and asked the Secretariat



to invite CMFE to send a representative to the meeting to present the organisation and hold and exchange of views with the CDMC.

**(iii) controversy raised by an observer in the MC-S-IS in respect of Recommendation CM/Rec(2007)11**

35. The Bureau noted that, following adoption by the Committee of Ministers on 26 September 2007 of Recommendation (2007)11 on promoting freedom of expression and information in the new information and communications environment, European Digital Rights (EDRI), a non-governmental organisation observer to the MC-S-IS, had expressed concern about this text on various internet-based fora. It also noted that EDRI had contributed to the group of specialists' work on the subject, although not all of its proposals had apparently been accepted. The Bureau welcomes lively public debate on the work of the CDMC which, in this particular case, may be pursued within the framework of the next MC-S-IS meeting. More generally, it trusts that EDRI will continue to contribute in a constructive spirit to the work of the MC-S-IS and, in this manner, also to that of the CDMC.

**APPENDIX I**

## List of participants

**Austria/Autriche**

Mr Matthais Traimer

Head of Department

Media Affairs and Information Society, Federal Chancellery, Constitutional Service, Ballhausplatz 2,  
A-1014 Vienna

Tel: (431) 53115 2388

Fax: (431) 53115 4285

E: [matthias.traimer@bka.gv.at](mailto:matthias.traimer@bka.gv.at)**Switzerland/Suisse**

Mr Frederic Riehl

Vice-Directeur

Office Fédéral de la Communication

44, rue de l'Avenir

CH-2501 Bienne

Tel: (41) 32 327 54 54

Fax: (41) 32 327 54 66

E: [frederic.riehl@bakom.admin.ch](mailto:frederic.riehl@bakom.admin.ch)**Bulgaria/Bulgarie**

Ms Bissera Zankova

Media Expert / Consultant

State Agency on Information Technologies and Communications

6 Gourko Street

BG - 1000 Sofia

Tel : +359 (294) 92 229

Fax : +359 (298) 70 625

E : [bisseraz@yahoo.co.uk](mailto:bisseraz@yahoo.co.uk)

**Iceland/Islande**

Ms Elfa Yr Gylfasdottir  
Head of Division  
Department of Cultural Affairs  
Ministry of Education, Science and Culture  
Solvholsgata 4  
IS-150 Reykjavik  
Tel : +354 (860) 2030  
Fax : +354 (562) 3068  
E : [elfa.gylfadottir@mrn.stjr.is](mailto:elfa.gylfadottir@mrn.stjr.is)

**Latvia/Lettonie**

Mr Andris Mellakauls  
Member  
Head of International Relations  
National Broadcasting Council  
Smilšu iela 1/3  
LV - 1939 RIGA  
Tel : +371 29196033  
Fax : 371 722 0448  
E : [andris.mellakauls@nrtp.lv](mailto:andris.mellakauls@nrtp.lv)

**Russian Federation**

Mr Alexander Borisov  
Professor  
Moscow State Institute of International Relations  
Ministry of Foreign Affairs  
76, Vernadskogo Prospekt  
117454 Moscow  
Tel: +007 495 (763) 70 65  
Fax: +007 495 (157) 32 23  
E: [albor@rambler.ru](mailto:albor@rambler.ru)

**Romania/Romanie**

Mrs Delia Mucica  
Senior Advisor to the President  
Romanian Public Television  
191, Calea Dorobantilor Sector 1  
R - Bucharest  
Tel : +40 (21) 319 92 49  
Fax : +40 (722) 335850  
E : [delia\\_mucica@yahoo.com](mailto:delia_mucica@yahoo.com)

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

Ms Vesna Poposka  
Head of International PR Department  
Government of "the former Yugoslav Republic of Macedonia"  
Secretariat General  
Ilindenska Str BB  
FYROM – Skopje  
Tel: +389 70 270708  
E-mail: [poposka@sinf.gov.mk](mailto:poposka@sinf.gov.mk)

**Secretariat**

Mr Jan Malinowski  
Head of Media and Information Society Division  
Directorate General of Human Rights  
Council of Europe  
Strasbourg 67075 Cedex  
Tel: +33 3 88 41 28 92  
Fax: +33 3 88 41 27 05  
E : [jan.malinowski@coe.int](mailto:jan.malinowski@coe.int)

Mr Kasper Holst  
Administrator  
Media and Information Society Division  
Directorate General of Human Rights  
Council of Europe  
Strasbourg 67075 Cedex  
Tel: +33 3 88 41 21 03  
Fax: +33 3 88 41 27 05  
E : [kasper.holst@coe.int](mailto:kasper.holst@coe.int)

Ms Anne Boyer-Donnard  
Administrative Assistant  
Media and Information Society Division  
Directorate General of Human Rights  
Council of Europe  
Strasbourg 67075 Cedex  
Tel: +33 3 88 41 59 03  
Fax: +33 3 88 41 27 05  
E: [anne.boyer-donnard@coe.int](mailto:anne.boyer-donnard@coe.int)

**Interpreters/Interpretes**

Mme Roopa Sukthankar  
Mlle Karen Freya Twidle

## **APPENDIX II**

### **Draft Agenda**

#### **1. Opening of the meeting**

#### **2. Adoption of the agenda**

##### Working documents

- Draft agenda for the meeting of the Bureau of the CDMC  
CDMC-BU(2007)OJ2
- Draft annotated agenda of the meeting of the Bureau of the CDMC  
CDMC-BU(2007)OJ2Notes

#### **3. Preparation of the 6th meeting of the CDMC (27 to 30 November 2007)**

##### Working documents

- CDMC's provisional draft agenda  
CDMC(2007)OJ2prov
- List of items discussed and adopted during the 5th meeting of the CDMC  
Report of the last CDMC meeting  
CDMC(2007)009

##### **a. Decisions of the Committee of Ministers of interest to the work of the CDMC**

##### Working documents

- Report and abridged report of the last CDMC meeting  
CDMC(2007)009
- PACE Recommendation 1805(2007) on Blasphemy, religious insults ad hate speech  
against persons on the ground of their religion
- PACE Recommendation 1799(2007) on the image of women in advertising
- Draft PACE Recommendation 1814 (2007) towards decriminalisation of defamation
- Conclusions of the International Conference "Why terrorism? Addressing the  
conditions conducive to the spread of terrorism" (Strasbourg, 25 and 26 April 2007)  
CM(2007)94add
- Council of Europe "road map" for the implementation of the United Nations Global  
Counter-Terrorism Strategy.  
CDMC(2007)011

##### **b. Work programme for the CDMC in 2008**

Working documents

- Work plans of CDMC groups of specialists and terms of reference for each group  
MC-S-IC(2007)001, MC-S-MD(2007)003, MC-S-PSM(2007)004, MC-S-IS(2007)015
- Compendium of the terms of reference of the CDMC subordinate bodies for  
2007/2008  
CDMC(2007)002

**c. Promoting visibility of the work of the CDMC**Information documents

- Report of the last meeting of the CDMC  
CDMC(2007)009
- Resolution of the Committee of Ministers on committees and subordinate bodies, their  
terms of reference and working methods  
CM Resolution (2005)47

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

- (i) **draft recommendation on media complaints bodies, their operation and procedures**
- (ii) **draft recommendation and report on the use and impact of technical filtering measures with particular regard to Article 10 of the European Convention on Human Rights**

Working documents

- MC-S-IS(2007)017

- (iii) **draft recommendation on copyright and freedom of expression, access to knowledge and education**

Working documents

- MC-S-IS(2007)020
- MC-S-IS(2007)008

- (iv) **practical tools on understanding the freedom of expression with regard to the work of Internet Service Providers**

Working documents

- MC-S-IS(2007)021

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

- (i) **Implementation of the Recommendation(2000)23 of the Committee of Ministers on the independence and functions of regulatory authorities of the broadcasting sector –**

Working documents

- Recommendation of the Committee of Ministers on the independence and functions of regulatory authorities of the broadcasting sector – Rec(2000)23E
- Overview of the implementation of Rec(2000)23 of the CM on the independence and functions of regulatory authorities for the broadcasting sector CDMC(2007)005

**(ii) Developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism**

Information documents

- Declaration of the Committee of Ministers on Freedom of expression and information in the media in the context of the fight against terrorism. CM(2005)30
- Guidelines of the Committee of Ministers on protecting freedom of expression and information in times of crisis
- Declaration by the Committee of Ministers on the protection and promotion of investigative journalism

**f. Discussion of a possible future mechanism in respect of Article 10 of the European Convention on Human Rights**

Information documents

- 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
- Revised document containing responses from member States CDMC(2007)013
- Chart summarizing responses to the consultation organised on the subject CDMC(2007)Misc6
- Report of the last meeting of the CDMC CDMC(2007)009

**g. Discussions on the work of the CDMC subordinate bodies**

Reference documents

- Compendium of the terms of reference of the CDMC subordinate bodies for 2007/2008 CDMC(2007)002

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

Working documents

- Report of the 6th meeting (20-21 September 2007)  
MC-S-IC(2007)011
- Work plan of the MC-S-IC for 2007  
MC-S-IC(2007)001
- Extension of the mandate of the MC-S-IC for 2008: draft Terms of reference of the MC-S-IC for 2008  
MC-S-IC(2007)010

**(ii) Group of specialists on media diversity (MC-S-MD)**Working documents

- Report of the 6th meeting of the MC-S-MD (10-11 September 2007)  
MC-S-MD(2007)007
- 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

- 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 MC-S-IS(2007) (26-27 March 2007)  
MC-S-IS(2007)014
- Work plan of MC-S-IS(2007) for 2007/2008  
MC-S-IS(2007)015
- Notes on the agenda of the 8th meeting of the MC-S-IS (29-30 October 2007)  
MC-S-IS(2007)OJ8Notes

**h. Internet governance and implementation of the WSIS action lines**Information documents

- Council of Europe submission to the 2nd Internet Governance Forum  
Building a free and safe Internet
- IGF 2nd meeting - Submission Synthesis Paper
- IGF programme



- IGF workshops programme
- Programme and conclusions of the Joint Council of Europe/French Commission for UNESCO/UNESCO meeting on “Ethics and human rights in the information society”
  - i. First European Ministerial Conference on the Media and New Communication Services (Reykjavik 2009)**

Information documents

- Report of the last CDMC meeting CDMC(2007)009
- Comments from Members States on the format and possible themes for the conference
- 1<sup>st</sup> European Ministerial Conference on Media and New Information Communication Services. Background paper  
CDMC-BU(2007)002
  - j. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC**

**4. Administrative and budgetary matters**

**5. Dates of the next meeting**

Information documents

- proposed timetable for meetings in 2008  
CDMC(2007)012

**6. Other business**

- (i) Informal request by EBU on topic of. the protection of the neighbouring rights of broadcasting organisations.**

Reference document

- Committee of Ministers recommendation CM Rec(2002)7
- E-mail from EBU dated 3 October 2007 with related documents in attachment

- (ii) Request for observer status: documents submitted by the NGO CMFE in support of their request to be granted observer status with the CDMC and its groups of specialists**

Information documents

- CMFE-Brief20070926-CDMC(2)
- Formulaire1asbl\_cmfe05122