



Strasbourg, 4 November 2005

CDMC-BU(2005)006

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

(CDMC-BU)

**Meeting of 24 and 25 October 2005
Human Rights Building, Room 40 01 413 4I**

REPORT

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

1. The Bureau of the Steering Committee on the Media and New Communication Services (CDMC-BU) met on 24 and 25 October 2005 in Strasbourg. The meeting was chaired by Mr Karol JAKUBOWICZ (Poland), Chairperson of the CDMC.

The list of participants is set out in Appendix I. The agenda, as adopted, is set out in Appendix II.

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

2. The Bureau took note of a Message from the Committee of Ministers to committees working in the intergovernmental field in the Council of Europe (document CM(2005)145rev). In its message, the Committee of Ministers asked committees to adapt the priorities of intergovernmental action to those set out in the Action Plan adopted at the Summit and outlined specific tasks for various committees.

The Bureau concluded that the Action Plan does not set out any tasks for the CDMC other than those already covered by the Action Plan of the 7th European Ministerial Conference on Mass Media Policy (Kyiv 10 and 11 March 2005). However, the Bureau stressed that many of the other objectives outlined in the Summit's Action Plan (as already discussed by the CDMC at its last meeting) relate to the work of the CDMC; the Steering Committee should therefore keep the matter under regular review.

3. The Bureau considered a draft reply prepared by the Secretariat to an invitation by the Committee of Ministers for comments on Recommendation 1706 (2005) of the Parliamentary Assembly on media and terrorism. It was adopted subject to certain changes (cf. Appendix III).

The Bureau's response to other requests made by the Committee of Ministers since the last meeting of the CDMC are also set out in Appendix IV.

Item 4: Working methods of the CDMC and the CDMC-BU

4. The Bureau pursued discussions on whether the CDMC should take a public stand on cases involving grave and systematic violations of the right to freedom of expression and information. There was general agreement that it would be important for the CDMC to be able to take up such a role; this would increase the credibility and visibility of the Steering Committee and of Council of Europe as a whole.

However, the Bureau also noted the obstacles in respect of such an approach, including those signalled by the Council of Europe Legal Advice Department, namely the CDMC's terms of reference and possible conflict or overlap with the monitoring and/or political role of other Council of Europe bodies (e.g. Committee of Ministers, Parliamentary Assembly, Secretary General).

The Bureau decided that possibilities should continue to be explored with a view to allowing the CDMC to make its concerns known in such cases, in particular by including this possibility in the Steering Committee's draft terms of reference, in order for the Committee of Ministers to take a decision on the issue.

The Bureau also requested that the Secretariat raise the issue in general terms in the context of the ongoing consideration of a draft Resolution on committees and subordinate bodies, their terms of reference and working methods.

Regardless of the outcome of the above, the Bureau considered that it should be possible for an issue of serious concern to be brought to the attention of the Secretary General at the request of the Bureau or the CDMC. It also observed that nothing prevents the CDMC (or the Chair on behalf of CDMC members) from addressing a message to the Committee of Ministers on a matter of serious concern, while indicating that the step taken does not fall strictly within the CDMC's terms of reference.

5. The Bureau considered other aspects of the CDMC's working methods under item 5.c. of the agenda.

Item 5: Preparation of the 2nd meeting of the CDMC (29 November to 2 December 2005)

6. The Bureau approved the draft agenda for the 2nd meeting of the CDMC, subject to certain changes (cf. document CDMC(2005)OJ2 prov). It paid particular attention to the points set out below.

a. Terms of reference of the CDMC

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

The Bureau noted that very few comments had been received and that the Secretariat had not advanced in the elaboration of a draft. For its part, the Bureau pursued the discussion on the subject and provided additional guidance to the Secretariat. Further, it agreed that Bureau members would send the Secretariat further suggestions by Friday 28 October 2005. On the basis of all of the information available, the Secretariat would then prepare a draft for consideration by the Bureau within the next ten days.

8. As regards the status of the Conference of International Non-Governmental Organisations enjoying participatory status with the Council of Europe, the Bureau noted that the draft Resolution on Committees and subordinate bodies, their terms of reference and working methods currently under consideration gives a clear answer on the subject. It places representatives of other Council of Europe bodies, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the Commissioner for Human Rights and the Conference

of INGOs on the same footing. The Bureau concluded that it would be advisable to wait until a final decision of general application is taken on the subject the Committee of Ministers.

9. The Bureau considered a request by the non-governmental organisation On-line/ More Colour in the Media (OL/MCM) for observer status with the CDMC and with two of the groups of specialists reporting to the CDMC, namely the MC-S-IS and MC-S-MD (document CDMC(2005)20). It decided to invite OL/MCM to present their request and their organisation at the CDMC's second meeting.

10. The Bureau examined a draft letter to members/observer States and organisations in connection with the broadening of the scope of the CDMC's remit and agreed to it, subject to certain changes (cf. Appendix V).

b. Work programme for the CDMC in 2006

11. The Bureau examined the work plan concerning items from the Kyiv Action Plan not covered by the terms of reference of the groups of specialists (document CDMC(2005)19) (cf. also paragraph 23 below). This provides some information on the CDMC's own programme for 2006. Additional information results from the work plans of each of the groups of specialists. A clear picture of the CDMC's future work would require updating the work plans; it would also be helpful to chart the expected results of the work of the groups of specialists and the CDMC's expected input into those results.

c. Working methods of the CDMC

12. The Bureau examined a document prepared by the Secretariat on draft rules on classification and publication of documents (document CDMC (2005) 17), developed to ensure transparency of the CDMC's activities. It decided that, subject to certain changes, it should be submitted for comments to the Council of Europe Legal Advice Department and, subsequently, to the CDMC for consideration. Once adopted, the document will also be communicated to the Standing Committee for Transfrontier Television for its consideration in terms of possibly adopting a similar approach.

13. The Bureau noted that the draft Resolution on committees and subordinate bodies, their terms of reference and working methods (currently under consideration) provides for the adoption of an abridged meeting report before the end of a meeting and that full meeting reports are to be published within one month of the meeting in question. It also noted that other Council of Europe committees have already abandoned the practice of adopting the full meeting report by the end of the meeting concerned.

The Bureau concluded that the CDMC procedures should be aligned with the above-mentioned Resolution (in its final form) and with prevailing practice. The Secretariat will have to ensure that drafts are produced in good time for them to be considered and adopted within the requisite time limits.

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

14. The Bureau confirmed that the draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired and the explanatory memorandum thereto (document CDMC (2005) 8) should be considered by the CDMC at its second meeting.

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

15. The Bureau noted that, having regard to the information provided by Council of Europe member states in response to a questionnaire addressed to them on the subject, the Secretariat had updated the paper on the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights (CDMC(2005)7 prov 2). It decided that the paper should be published, after removing the tentative assessment.

The Bureau requested that the paper continue to be updated on the basis of any additional replies received from member states until its publication or submission to the Committee of Ministers (e.g. in the form of an appendix to the CDMC's formal reply). It also decided that a message be addressed to all CDMC delegations thanking for responses provided to the questionnaire and requesting that any further answers be forwarded to the Secretariat without delay.

16. The members of the informal working group on decriminalisation of defamation, which was set up by the CDMC at its last meeting, gave an overview of their discussions. In particular, they indicated that, having regard to the position of relevant ministries, the mere existence of criminal law provisions in respect of defamation cannot, in their view, be regarded as falling foul of the Court's case-law; the answer can only be based on a case-by-case analysis of both law and practice.

17. As regards the CDMC's reply to the Committee of Ministers, the Bureau worked on the draft prepared by the Secretariat (document CDMC(2005)018) and requested that the informal working group make additional suggestions on the basis of the Bureau's discussions; it was agreed that this task would be coordinated by the Bulgarian member.

The Bureau considered that the reply should: describe the relevant case-law of the European Court of Human Rights and national laws on defamation (without making reference to specific countries but, if possible, summarising the situation statistically); give an indication of the alignment between the laws on defamation and case-law of the Court (while avoiding a categorical conclusion); highlight the threat that criminal defamation laws represent to freedom of expression, in particular when they provide for sanctions involving deprivation of liberty; make reference to the manner in which application of criminal defamation laws can be moderated and to alternatives to its application; and recommend that the Committee of Ministers call for a closer alignment between the laws on defamation in Council of Europe member states and the relevant case-law of the European Court of Human Rights.

18. The Bureau also confirmed that, before considering the draft reply to the Committee of Ministers, the CDMC should pursue its discussions on the subject, in particular by holding an exchange with the OSCE Representative on Freedom of the Media, and representatives of the CDCJ and the CCJE. Consequently, the Bureau requested that they be invited to the CDMC's next meeting.

The Bureau also noted that the Secretariat had been approached by a local United Kingdom based organisation defending the rights of victims of defamation or abuse through the media, requesting to be heard in the context of the ongoing debate on the question of defamation and of its decriminalisation. The Bureau decided that any submissions made by that organisation should be made available to the informal working group on decriminalisation of defamation and other interested CDMC experts; however, they should not be invited to the next meeting of the CDMC.

f. European Convention on Transfrontier Television

19. The Bureau took note of the draft report on the last meeting of the Standing Committee on Transfrontier Television and pursued the discussion on the future of the European Convention on Transfrontier Television.

In line with previous Steering and Standing committee exchanges on the subject, the Bureau considered that the outcome of the revision of the Convention should be in line with the revision of the European Directive "Television Without Frontiers"; however, this does not mean that work by the Council of Europe should lag behind that of the European Commission. Further, in the view of the Bureau, the nature of the Convention should be preserved and its added value as an instrument to resolve differences in cross-border television matters enhanced, including through the broadening of its geographical scope.

20. The Bureau decided that detailed information should be provided to CDMC experts on work being carried out on the revision of the Convention; it was proposed that this be done in the form of a separate paper outlining the main issues of discussion and proposals. If the result of the discussion at the next CDMC meeting permits this, it would be desirable for the Steering Committee to take a stand on the future of the Convention, so that Council of Europe member states, states party to the Convention and the international community receive a clear signal as to the CDMC's intentions in this regard.

The Bureau also considered that it would be desirable that a reply be sent to the European Commission's suggestions concerning the scope of the Convention. This could be an occasion to seek to develop further synergies between the Council of Europe and the European Commission, including as regards the possible broadening of the geographical scope of the Convention. The CDMC should be asked to consider this matter further.

g. Exchange of views on copyright in the context of the work of the CDMC

21. The Bureau noted that, so far, the exchanges among members of the informal working group on copyright had been rather limited. It decided that, should this situation persist, the

person who had been selected to animate the group's discussions should be replaced; it was suggested that the expert in the CDMC in respect of Hungary be asked to assume this task.

22. The Bureau also recalled that, at the CDMC's last meeting, certain experts suggested that a conference on copyright be organised by the Council of Europe in 2006. For its part, the Bureau considered that the holding of such a conference would neither be practicable (having regard *inter alia* to budgetary considerations) nor necessary.

h. Work of the CDMC's subordinate bodies

23. The Bureau considered the work plan prepared by the Secretariat in respect of items from the Kyiv Action Plan not covered by the terms of reference of the groups of specialists reporting to the CDMC (document CDMC(2005)19). The Secretariat was asked to amend the work plan, having regard to the Bureau's comments; the draft should be reviewed by the Bureau and finalised well in advance of the CDMC meeting.

i. MC-S-IC

24. The Bureau took note of the work carried out by the MC-S-IC during its 2nd meeting, as well as of the outcome of the Conference "Safeguarding Free Speech and the Right to Information: Media in Times of Crisis" (Strasbourg, 13 and 14 October 2005) intended *inter alia* to provide inspiration for the group.

At the last meeting of the CDMC, the Secretariat was asked to submit to the Bureau more detailed proposals on action that might be taken upon, or amendments required to, the terms of reference of the MC-S-IC. However, having regard to the work carried out to date and the decisions taken by the group at its last meeting, it would appear that significant changes to the terms of reference are not required for the time being. The work plan will have to be updated to incorporate new tasks assigned to the group and expected results.

ii. MC-S-IS

25. The Bureau noted the work carried out by the MC-S-IS at its 2nd meeting, as well as the results of the pan-European Forum "Human Rights in the Information Society: Responsible Behaviour by Key Actors" (Strasbourg, 12 and 13 September 2005). In particular, it noted that a revised version of the Council of Europe Internet Literacy Handbook and a study on 'harmful content' are soon to be published.

26. The Bureau considered that the MC-S-IS should bring its work on 'harmful content' to a head, having regard to the group's terms of reference. It also expressed the view that the terms of reference of the MC-S-IS should be renewed, and that the Declaration by the Committee of Ministers on Human Rights in the Information Society should form the basis of the Group's new mandate. The new draft terms of reference should be discussed at the 3rd meeting of the CDMC.

MC-S-MD

27. The Bureau noted that the 2nd meeting of the MC-S-MD had not yet taken place. Information on progress being made by the group in respect of its terms of reference should be provided to the CDMC at its next meeting.

iii. MC-S-PSB

28. The Bureau noted that the 2nd meeting of the MC-S-PSB had not yet taken place. Information on progress being made by the group in respect of its terms of reference should be provided to the CDMC at its next meeting. The Bureau reiterated its support for the work being carried out by the group in respect of 'public service media' and expressed appreciation for the study prepared in this connection by the consultant Mr Christian NISSEN.

i. Dates of the next meetings

29. The Bureau considered the list of tentative dates for meetings of the CDMC and its subordinate bodies, and the T-TT, in 2006 (cf. document CDMC(2005)014). It adopted the list of dates for meetings, subject to certain changes, and decided that they should be communicated to the bodies concerned.

j. Other issues for the CDMC meeting agenda*i. Belarus: the situation as regards freedom of expression and information and possible action by the CDMC*

30. The Bureau discussed briefly the situation as regards freedom of expression and information in Belarus and examined media-related aspects of a draft Council of Europe initiative for Belarus (document CDMC-BU(2005)5). In the Bureau's view, the activities set out in the draft initiative would be most welcome not only because of the assistance provided to Belarusian media but also from the point of view of signalling the support of the international community to media professionals striving to operate in a difficult environment.

In this connection, the Bureau supported the proposal that the CDMC hold a hearing on the situation of the Media in Belarus at its next meeting; in view of the information gathered, the CDMC could take a public stand on the matter (cf. paragraph 4 above). However, given that this does not fall clearly within the CDMC's remit, the Bureau requested that the Secretariat consult the matter within the Directorate General of Human Rights and with other relevant Council of Europe services (e.g. the Private Office of the Secretary General and the Directorate General of Political Affairs). While noting that the time available to organise the hearing for the next CDMC meeting (29 November to 2 December 2005) is very limited, the Bureau also decided that CDMC members be consulted by e-mail on the subject.

Item 6: Draft Recommendation on ways of improving the relationships between health authorities and the media

31. At its last meeting, the CDMC considered the draft Recommendation on ways of improving the relationships between health authorities and the media, prepared by the European Health Committee (CDSP). It concluded that the draft text does not raise particular issues in respect of existing Council of Europe standards on freedom of expression and information, but some experts viewed the draft Recommendation, in particular the Appendix thereto, more as guidance to public relations departments of health authorities on how to lobby the media than as an instrument that might serve the public's right to information on health issues and the work of health authorities.

In response to the CDMC's views, the Secretariat of the CDSP requested that the Committee of Ministers withhold discussion of the draft with a view to seeking detailed comments from the CDMC by the end of October 2005. In view of the time constraints, it was decided that editing suggestions made by the Chair of the CDMC be circulated to all CDMC experts for comments in order to allow the Bureau to respond.

Germany and Portugal indicated that they agreed with the changes proposed by the Chair and Lithuania suggested some additional amendments. The Bureau decided that further amendments to the draft were required and asked the Secretariat to work on it, having regard to the views expressed by Bureau members.

32. The Bureau also decided that the transmission of the suggested changes should be accompanied by a note addressed to the Committee of Ministers indicating that the guidance to health authorities proposed by the CDSP (and any comparable initiatives that may follow in respect of other areas of competence of public authorities) could compromise the freedom and independence of the media. Indeed, the role of the media is to gather information and to disseminate it in a form only determined by its editorial independence within the limits set out in Article 10.2. of the European Convention on Human Rights. Information should be made available to the media, and from this point of view the draft Recommendation itself is welcome and deserves support, but authorities should refrain from any attempt to make the media reflect a particular position or to report in a particular manner. Application of a considerable array of steps serving this goal is encouraged and supported in the Appendix to the draft Recommendation. If the Appendix is not revised, the proposed recommendation would appear to legitimise the opposite approach and would thus set a dangerous precedent in terms of Council of Europe standards. The question also arises whether the content of the Appendix is suitable for a Committee of Ministers instrument of that nature.

The CDSP's proposal could perhaps be complemented, or might even be replaced, by a more general text regarding relations between public authorities and the media with a view to laying down standards on the provision of information to the media, in particular when public authorities are concerned that information about their activities should reach the public, while respecting media independence. The CDMC stands ready, if so requested, to prepare a draft of such a text.

33. The Bureau's response is set out in Appendix VI.

Item 7. Other business

34. The Bureau noted that the report of the Working Group on Internet Governance of the World Summit on the Information Society (WSIS) makes reference to a number of public policy issues involved in the Internet governance system which fall under the Council of Europe's remit. The Bureau expressed the view that the manner in which the Internet is constructed and governed will have a bearing on the extent to which it enhances (or hinders) human rights. The Council of Europe should follow in respect of the Internet the same human rights approach that it has followed until now in respect of media.

In this connection, the CDMC should take note of the results of the Second Phase of the WSIS (to be held in Tunis from 16 to 18 November 2005) and develop the Council of Europe approach on the question of Internet governance. The Bureau decided that at least the following should be made available to CDMC experts: relevant submissions to the Second Phase of the WSIS; the position adopted by the European Union in respect of Internet governance; and the conclusions of the WSIS.

Moreover, it decided that the CDMC should receive a clear and straightforward explanation of what are the main issues that concern Internet governance. For this purpose, it requested that the Secretariat invite someone who can provide this explanation at the CDMC's next meeting. It was suggested that the person in question could be Mr David R Hendon, Director of Communication and Information Industries at the United Kingdom Department of Trade and Industry.

Item 8: Dates of next meeting

35. The Bureau's next meeting will be held on 12 and 13 April 2006.

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APPENDIX I
List of participants

Members of the Bureau of the CDMC / Membres du Bureau du CDMC

Austria/Autriche

Mr Matthias TRAIMER, Head of Media Division, Federal Chancellery, Ballhausplatz 2, A-1014 WIEN

Bulgaria/Bulgarie

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Mr Karol JAKUBOWICZ, Chairperson of the CDMC, Director, Department of Strategy and Analysis, National Broadcasting Council, Skwer Wyszynskiego 9, PL- WARSAW

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Mrs Sebnem BILGET, Head of International Relations Department, Radio and Television Supreme Council, Bilkent Plaza B2 Blok, 06530 Bilkent, ANKARA

Secretariat/Secrétariat

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

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

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

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

Ms Franziska KLOPFER, Administrative Assistant, Co-Secretary of the MM-S-IC, Media Division, Directorate General of Human Rights – DGII / Assistante Administrative, Division Médias, Direction Générale des Droits de l'Homme - DG II

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APPENDIX II**Agenda**

- 1. Opening of the meeting**
- 2. Adoption of the agenda**
- 3. Decisions of the Committee of Ministers of interest to the work of the CDMC**
- 4. Working methods of the CDMC and the CDMC-BU**
- 5. Preparation of the 2nd meeting of the CDMC (29 November to 2 December 2005)**
 - a. Terms of reference of the CDMC
 - b. Work programme for the CDMC in 2006
 - c. Working methods of the CDMC
 - d. Draft Recommendation on the right of the public to information on major events where exclusive rights have been acquired
 - e. Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation
 - f. European Convention on Transfrontier Television
 - g. Exchange of views on copyright in the context of the work of the CDMC
 - h. Work of the CDMC's subordinate bodies
 - i. Dates of the next meetings
 - j. Other issues for the CDMC meeting agenda
 - i. Belarus: the situation as regards freedom of expression and information and possible action by the CDMC in the light of the European Union's stance on this matter
- 6. Draft Recommendation on ways of improving the relationships between health authorities and the media**
- 7. Other business**
 - a. Internet governance: the report of the Working Group on Internet Governance and preparation for second phase of the World Summit on the Information Society
- 8. Dates of next meeting**

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Appendix III

Comments by the Bureau of the CDMC to the Committee of Ministers on Recommendation 1706 (2005) of the Parliamentary Assembly on media and terrorism

At its last meeting (21 to 24 June 2005), the Steering Committee on the Media and New Communication Services (CDMC) took note of the Parliamentary Assembly's Recommendation 1706 (2005) on media and terrorism, aimed at striking a balance between the protection of freedom of expression and information in the media and preventing the use of the media as a means of contributing to the aims of terrorists. The subsequent invitation by the Committee of Ministers to provide comments on the Recommendation was considered by the Bureau of the CDMC at its meeting on 24 and 25 October 2005.

The adoption of Recommendation 1706 (2005) and its associated report (Parliamentary Assembly document 10557) are timely, respond to widespread public interest and contribute to the ongoing discussion, in both national and international fora, on the issue.

It is to be welcomed that, when elaborating the above-mentioned Recommendation, regard was had to the Committee of Ministers' Declaration on freedom of expression and information in the media in the context of the fight against terrorism, adopted on 2 March 2005. Indeed, certain of the issues falling within the remit of the CDMC raised in the Parliamentary Assembly's Recommendation have been addressed in the Committee of Ministers Declaration.

More generally, attention should be drawn to the work undertaken by the CDMC and by its Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC) pursuant to the Action Plan adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005). The MC-S-IC has been asked, inter alia, to: explore the methods which could be applied to monitor the implementation by member states of the texts adopted by the Council of Europe on freedom of expression and information in times of crisis (a term which includes, but is not limited to, terrorism); to make proposals on the establishment of a forum for the regular review, in consultation with media professionals and other interested parties, of the question of the rights and responsibilities of the media in times of crisis; to explore ways to encourage the media's contribution to intercultural and inter-religious dialogue; and to make proposals for the establishment of an award for those media which have made an outstanding contribution to conflict prevention or resolution, understanding and dialogue. The direction being taken by the MC-S-IC in its work is broadly consistent with the Parliamentary Assembly's Recommendation 1706 (2005). The MC-S-IC will continue to take due account of that Recommendation.

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Appendix IV

Comments by the Bureau of the CDMC to the Committee of Ministers on Recommendation 1702 (2005) and Resolution 1438 (2005) of the Parliamentary Assembly on freedom of the press and the working conditions of journalists in conflict zones

The Steering Committee on the Media and New Communication Services (CDMC) noted with interest Recommendation 1702 (2005) and Resolution 1438 (2005) of the Parliamentary Assembly of the Council of Europe concerning freedom of the press and the working conditions of journalists in conflict zones.

The two documents are timely and provide a much-needed response to a situation in which, on the one hand, the media and more particularly journalists encounter more and more obstacles and restraints in the performance of their professional duties which are of crucial importance in exercising the right to information and, on the other, face dangerous conditions which imperil seriously their life, liberty and security.

Concerning Resolution 1438 (2005), it is to be welcomed that the Parliamentary Assembly of the Council of Europe notes the pertinence of the Committee of Ministers' Declaration and Recommendation No. R (96) 4 on the protection of journalists in situations of conflict and tension.

As regards point ii of the Recommendation, attention should be drawn to the work undertaken by the CDMC and by its Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC), pursuant to the Action Plan adopted at the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005). In particular, the MC-S-IC is entrusted with exploring the methods which could be applied to monitor the implementation by member states of the texts adopted by the Council of Europe on freedom of expression and information in times of crisis.

The MC-S-IC is examining whether, taking into account the texts which are under consideration or already exist at the international level concerning freedom of expression and information in times of crisis, European standards should be set out so as to guarantee this freedom; if necessary, the MM-S-IC will develop such standards for subsequent consideration by the CDMC and, if appropriate, submission to the Committee of Ministers of the Council of Europe. Approaching the protection of all media professionals in its broader perspective, the MC-S-IC will examine whether measures should be taken to ensure the free movement of media professionals covering crisis situations and the establishment of a forum for the regular review, in consultation with media professionals and other interested parties, of the question of the rights and responsibilities of the media and the working conditions of journalists in times of crisis. The MC-S-IC will take due account of the Parliamentary Assembly's Recommendation and Resolution in the context of its work.

As regards point iii of the Recommendation, the CDMC is open to cooperation with relevant bodies of other international organisations; representatives of such bodies would be welcome participants in CDMC meetings and in meetings of its groups of specialists. As regards non-governmental organisations (and with reference to points 6 and 14 of Resolution 1438 (2005) of the Parliamentary Assembly), it should be noted that Reporters Without Borders already

enjoys observer status with the MC-S-IC. The Secretariat also maintains contacts with other organisations.

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**Comments by the Bureau of the CDMC to the Committee of Ministers
on the draft Council of Europe Disability Action Plan**

The Bureau of the Steering Committee on the Media and New Communication Services (CDMC) is grateful for the opportunity to consider the draft Council of Europe Disability Action Plan prepared by the Committee on the Rehabilitation and Integration of People with disabilities (CD-P-RR) from the viewpoint of the CDMC's work and Council of Europe standards concerning the media. Due to the time limits imposed, the CDMC as a whole has not been able to consider the draft; the draft Action Plan and the comments provided by the Bureau of the CDMC will nonetheless be brought to the CDMC's attention during its next meeting (to be held from 29 November to 2 December 2005).

For its part, the Bureau of the CDMC welcomes the elaboration of the Action Plan designed to promote the rights and full participation of people with disabilities in society; the media have an undeniable role to play in this context. More particularly, the references made in the draft Action Plan to the media do not give rise to issues in respect of existing Council of Europe standards on freedom of expression and information and on freedom of the media.

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Appendix V

Letter to member / observer states and organisations in connection with the broadening of the scope of the CDMC's remit

Dear ...

I refer to my letter of ..., in which I indicated that I would be providing further details about the desirable future composition of the Steering Committee on the Media and New Communication Services (CDMC).

In this connection, you will recall that the Ministers of States who participated in the 7th European Ministerial Conference on Mass Media Policy (Kyiv, 10 and 11 March 2005) decided that greater attention should be given to the effectiveness of Council of Europe principles and standards, including but not limited to freedom of expression and the free flow of information, in the context of new information and communication technologies and services. This led to the broadening, by decision of the Committee of Ministers of the Council of Europe, of the mandate of the Steering Committee and to its change of name (formerly Steering Committee on the Mass Media (CDMM)). Nevertheless, I should stress that developing European cooperation on means of public communication with a view to further enhancing freedom of expression and information in a pluralistic democratic society remains a central part of the CDMC's remit.

At its first meeting, the CDMC decided that the attention of Council of Europe member states should be specifically drawn to these developments and to the impact they should have in the Steering Committee's composition. It would be desirable that, in addition to media experts, specialists in new information and communication services be appointed to take part in CDMC meetings. The coordination role of delegates is of great importance; consequently, delegates should be in a position to liaise in advance with the relevant administration in order to obtain instructions for the proper discharge of their mandate. Moreover, they can be accompanied at CDMC meetings by additional participants contributing with their specific expertise to relevant discussions. In cases where a state is entitled to reimbursement of travel and subsistence expenses, the cost of participation of only one delegate will be borne by the Council of Europe.

I will inform you in due course of developments concerning the composition of the CDMC.

Yours ...,

Pierre-Henri IMBERT
Director General of Human Rights

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Appendix VI

Comments by the Bureau of the CDMC to the Committee of Ministers on the draft Recommendation on the ways of improving the relationships between health authorities and the media

1 At its last meeting, the CDMC considered the draft Recommendation on ways of improving the relationships between health authorities and the media, prepared by the European Health Committee (CDSP). It concluded that the draft text does not raise particular issues in respect of existing Council of Europe standards on freedom of expression and information. Nevertheless, some experts viewed the draft Recommendation, in particular the Appendix thereto, more as guidance to public relations departments of health authorities on how to lobby the media than as an instrument which might serve the public's right to information on health issues and on the work of health authorities.

Subsequently, having requested that the Committee of Ministers withhold discussion of the draft, the Secretariat of the CDSP asked for detailed comments from the CDMC by the end of October 2005. In view of the time constraints, it was decided that suggestions made by the Chair of the CDMC (namely, to significantly review or, preferably, delete large sections of the Appendix) be circulated to all CDMC experts for reaction in order to allow the Bureau of the CDMC to provide a response following its meeting on 24 and 25 October 2005. Given that the CDMC had already provided comments of a general nature, it is not surprising that this new request received a limited response; however, the few replies received supported the approach suggested by the Chair of the CDMC. Moreover, the Bureau of the CDMC identified certain other sections of the text that would require rewording or should preferably be deleted. In the attached text, the parts of the text concerned are clearly identified (strikethrough or underlining).

2. The Bureau also decided to reiterate its (and the CDMC's) concerns regarding the draft Recommendation. Depending on how it is implemented, the guidance to health authorities proposed by the CDSP (and any comparable initiatives that may follow in respect of other areas of competence of public authorities) could potentially represent a threat to the principle that freedom of expression should be exercised "without interference by public authority" (cf. Article 10 of the European Convention on Human Rights) and compromise the freedom and independence of the media. The role of the media is certainly to gather information and to disseminate it in a form only determined by its editorial independence, journalistic ethics and responsibility, within the limits set out in Article 10.2 of the European Convention on Human Rights. Information should be made available to the media, and from this point of view the draft Recommendation itself is to be welcomed and deserves support. However, authorities should refrain from any attempt to make the media reflect a particular position or to report in a particular manner. The Appendix to the draft Recommendation encourages and supports the adoption of a considerable array of steps serving this latter goal.

Care should therefore be taken to ensure that the proposed Recommendation does not legitimise the undesirable approach outlined above. In the Bureau's opinion, adoption of the draft Recommendation together with the Appendix as it now stands would set an unwelcome precedent in terms of Council of Europe standards. The question also arises whether the content of the Appendix is suitable for a Committee of Ministers instrument of that nature.

3. The CDSP's proposal could perhaps be complemented, or might even replaced, by a more general text regarding relations between public authorities and the media with a view to laying down standards on the provision of information to the media, in particular when public authorities are concerned that information about their activities should reach the public, while respecting media independence. The CDMC stands ready, if so requested, to prepare a draft of such a text.